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ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 24, Issue 48
November 27, 2000

Pages 17,384 – 17,495

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ILLINOIS REGISTER

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ISSUES INDEXI-1

EDITOR'S NOTE: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indices are as follows:

- Issue 16 - April 14, 2000: Data Through March 31, 2000
- Issue 29 - July 14, 2000: Data Through June 30, 2000
- Issue 42 - October 13, 2000: Data Through September 30, 2000
- Issue 3 - January 19, 2001: Data Through December 31, 2000 (Annual)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: 310.290
Proposed Action: Amend
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code (20 ILCS 415/8 and 8a).

5) A Complete Description of the Subjects and Issues Involved: In Section 310.290, Out-of-State or Foreign Service Rate, an Executive II position is being added at the request of the Department of Children and Family Services which will be located in Washington, D.C. The monthly ranges for the out-of-state position will be \$3,037 - \$5,475 for the States other than California and New Jersey; and \$3,433 - \$6,189 for the States of California and New Jersey.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain any incorporations by reference? No

9) Are there any proposed amendments pending to this Part? Yes

| Section Numbers | Proposed Action | Ill. Reg. Citation |
|----------------------|-----------------|--------------------|
| 310.280 | Amend | 24 Ill. Reg. 5802 |
| 310.280 | Amend | 24 Ill. Reg. 7574 |
| 310.100 | Amend | 24 Ill. Reg. 10030 |
| 310.110 | Amend | 24 Ill. Reg. 10030 |
| 310.130 | Amend | 24 Ill. Reg. 10030 |
| 310.290 | Amend | 24 Ill. Reg. 10030 |
| 310.490 | Amend | 24 Ill. Reg. 10030 |
| 310.530 | Amend | 24 Ill. Reg. 10030 |
| 310.540 | Amend | 24 Ill. Reg. 10030 |
| APPENDIX B | Amend | 24 Ill. Reg. 10030 |
| APPENDIX C | Amend | 24 Ill. Reg. 10030 |
| APPENDIX D | Amend | 24 Ill. Reg. 10030 |
| APPENDIX G | Amend | 24 Ill. Reg. 10030 |
| 310.280 | Amend | 24 Ill. Reg. 14844 |
| 310.280 | Amend | 24 Ill. Reg. 15486 |
| APPENDIX A, Table AB | New | 24 Ill. Reg. 16151 |

10) Statement of Statewide Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

jurisdictional bodies within the State.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
Telephone: (217) 782-5601

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The information was not known prior to the July 2000 Regulatory Agenda.

The full text of the proposed amendments begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND

POSITION CLASSIFICATIONS

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PART 310

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| 310.30 | Jurisdiction |
| 310.40 | Pay Schedules |
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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| 310.420 | Objectives |
| 310.430 | Responsibilities |
| 310.440 | Merit Compensation Salary Schedule |
| 310.450 | Procedures for Determining Annual Merit Increases |
| 310.455 | Intermittent Merit Increase |
| 310.456 | Merit Zone (Repealed) |
| 310.460 | Other Pay Increases |
| 310.470 | Adjustment |
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| 310.490 | Other Pay Provisions |
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| 310.530 | Implementation |
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| 310.550 | Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed) |

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| TABLE C | RC-069 (Firefighters, AFSCME) (Repealed) |
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3225, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1986; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 19132, effective October 28, 1986; emergency amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Reg. 648, effective December 22, 1986; emergency amendment at 11 Ill. Reg. 3363, effective February 3, 1987; emergency amendment at 11 Ill. Reg. 4388, effective February 27, 1987; emergency amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; emergency amendment at 11 Ill. Reg. 15273, effective September 1, 1987; emergency amendment at 11 Ill. Reg. 17919, effective October 19, 1987; emergency amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; emergency amendment at 12 Ill. Reg. 3811, effective January 27, 1988; emergency amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; emergency amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 8135, effective April 22, 1988; emergency amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; emergency amendment at 12 Ill. Reg. 20584, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; emergency amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; emergency amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; emergency amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; emergency amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; emergency amendment at 14 Ill. Reg. 18954, effective November 13, 1990; emergency amendment at 15 Ill. Reg. 663,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1933, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 15, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6333, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; peremptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; peremptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; peremptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; amended at 25 Ill. Reg. _____, effective _____.

SUPPART B: SCHEDULE OF RATES

Section 310.290 Out-of-State or Foreign Service Rate

The rate of pay for employees occupying positions which require payment in accordance with the economic conditions and social legislation of another state or foreign country. An adjustment may be made to the salary of an employee stationed in a foreign country to compensate for a change in the currency exchange rate. The Director of the Department of Central Management Services will, before approving an adjustment, consider the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

Range
Effective Fiscal Yea

| | |
|--|------------------------|
| Executive II (States Other Than California and New Jersey) (CA, NJ) | 3037-5475 3433-6189 |
| Foreign Service Economic Development Executive I | 3455-6168 |
| Foreign Service Economic Development Executive II | 4424-8083 |
| Foreign Service Economic Development Representative | 2936-5288 |
| Office Administrator IV (States Other Than California and New Jersey) (CA, NJ) | 2307-3993 2608-4514 |
| Office Assistant (Foreign Service) | 1824-2461 |
| Office Associate (States Other Than California and New Jersey) (CA, NJ) | 1950-2675 2205-3024 |

Office Coordinator

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

| | |
|--|--------------------------|
| (States Other Than California and New Jersey) (CA, NJ) | 2025-2791 2289-3155 |
| Public Service Administrator (States Other Than California and New Jersey) (CA, NJ) | 3094-6767 3497-7649 |
| Revenue Auditor I (States Other Than California and New Jersey) (CA, NJ) | 2760-3943 3120-4458 |
| Revenue Auditor II (States Other Than California and New Jersey) (CA, NJ) | 3217-4660 3636-5268 |
| Revenue Auditor III (States Other Than California and New Jersey) (CA, NJ) | 3589-5234 4057-5916 |
| Revenue Auditor Trainee (States Other Than California and New Jersey) (CA, NJ) | 2300-3215 2600-3635 |
| Revenue Tax Specialist I (States Other Than California and New Jersey) (CA, NJ) | 2300-3215 2600-3635 |
| Revenue Tax Specialist II (States Other Than California and New Jersey) (CA, NJ) | 2516-3562 2844-4026 |
| Revenue Tax Specialist Trainee (States Other Than California and New Jersey) (CA, NJ) | 2103-2921 2378-3302 |
| Senior Public Service Administrator (States Other Than California and New Jersey) (CA, NJ) | 4263-10018 4819-11324 |
| (Source: Amended at 25 Ill. Reg. _____, effective _____) | |

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible
- 2) Code Citation: 89 Ill. Adm. Code 309
- 3) Section Numbers: Proposed Action:
309.20 Amend
- 4) Statutory Authority: 20 ILCS 505; 750 ILCS 50; 42 USCA 670 et seq.; 45 CFR 1356.40 and 1356.41.
- 5) A Complete Description of the Subjects and Issues Involved: On October 16, 1998, the Department submitted a Notice of Proposed Amendments to the Secretary of State's Administrative Code Unit with proposed amendments to 89 Ill. Adm. Code 309, Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible. Included in the Notice were amendments to Section 309.20, Definitions. In the definition of "best interests", the Department deleted the word "racial". The version appearing in the Illinois Register, however, retained the word which subsequently went undetected throughout the entire rulemaking process, including final adoption and publication of the rule effective September 15, 1999.

The Department now proposes to correct that oversight by deleting the word "racial" from the definition of "best interests". In addition, the Department is proposing to delete the word "cultural" from the same. This action is being taken at the request of the Federal Office for Civil Rights which believes that the words could lead to violations of the Multi-ethnic Placement Act and Section 1808, Removal of Barriers to Inter-ethnic Adoption provisions of the Small Business Job Protection Act of 1996. The Office for Civil Rights has expressed concern that the use of culture in making child placement decisions could serve as a method of circumventing the prohibition against using race, color, or national origin in such decisions.

- 6) Will these proposed amendments replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any proposed amendments to this Part pending? No
- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Office of Children and Family Policy
Department of Children and Family Services
406 East Monroe, Station #65
Springfield, Illinois 62701-1498
(217) 524-1983
TTY: (217) 524-3715
Internet: cfpolicy@dcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department did not anticipate the necessity of this rulemaking.

The full text of the proposed amendments begins on the next page.

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 309

ADOPTION SERVICES FOR CHILDREN FOR WHOM THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES IS LEGALLY RESPONSIBLE

| Section | Purpose |
|---------|--|
| 309.10 | Definitions |
| 309.20 | Recruitment of Adoptive Families |
| 309.30 | Adoption Listing Services |
| 309.40 | Identification of Children for Potential Adoption Planning |
| 309.50 | Legal Risk Placements |
| 309.60 | Freeing Children for Adoption |
| 309.70 | Termination of Parental Rights |
| 309.80 | Putative Father Registry |
| 309.90 | Preparation of Children for Adoption |
| 309.100 | Preparation and Training of Adoptive Families |
| 309.110 | Preparation of the Child's Biological Parents |
| 309.120 | Placement Considerations |
| 309.130 | Placement of Children with Adoptive Families |
| 309.140 | Providing Information to Adoptive Families |
| 309.150 | Post-Placement Services |
| 309.160 | Post-Adoption Services |
| 309.170 | Adoption Assistance |
| 309.180 | Adoption Registry |

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5] and the Adoption Act [750 ILCS 50]; implementing the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Adoption and Safe Families Act (P.L. 105-89).

SOURCE: Adopted at 22 Ill. Reg. 8769, effective May 15, 1998; amended at 25 Ill. Reg. _____, effective _____.

Section 309.20 Definitions

"Adoption assistance" or "adoption subsidy" means financial assistance and other services from the Department which are provided to the adoptive parents after the finalization of an adoption of a child with special needs as defined in Section 309.180.

"Adoption placement" means a living arrangement with a family which is directed toward establishing that family as the child's new legal parents.

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"Adoption triad" means the adoptive family, the adoptee (child being adopted) and the biological family.

"Adult" means a person who has attained the age of 18.

"Attachment" means the lasting psychological tie between two people who have significance for each other that endures through space and time and serves to join them emotionally.

"Best interests" as defined in the Juvenile Court Act of 1987 means consideration of the following factors in the context of the child's age and developmental needs:

the physical safety and welfare of the child, including food, shelter, health, and clothing;

the development of the child's identity;

the child's background and ties, including familial, ~~cultural~~, and religious;

the child's sense of attachments, including:

where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and sense of being valued);

the child's sense of security;

the child's sense of familiarity;

continuity of affection for the child;

the least disruptive placement alternative for the child;

the child's wishes and long-term goals;

the child's community ties, including church, school, and friends;

permanence for the child;

the uniqueness of every family and child;

the risks attendant to entering and being in substitute care; and

the preferences of the persons available to care for the child.

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[705 ILCS 405/1-3]

"Certification training" means training directed toward preparing a family to adopt a child for whom the Department of Children and Family Services is legally responsible and may consist of the following different types of training:

six hours of training for foster care conversion adoptions which means that a foster parent or relative caregiver is adopting a child who has been in his or her care; or

six hour of standardized training and an additional individualized training plan specific to the child's needs for adoptive parents who have not had the child in their care prior to the adoptive placement; or

training specified by private child welfare agencies who meet the standards of the Council on Accreditation of Services for Families and Children.

"Children for whom the Department of Children and Family Services is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Confidential intermediary" is an individual appointed by the court for the purpose of obtaining from biological parents or siblings of an adopted person information concerning the background of a psychological or genetically-based medical problem experienced or which may be experienced by the adopted person or obtaining assistance in treating such a problem. [750 ILCS 50/18.3a] A confidential intermediary is obliged by law to protect the identity and privacy of the biological family as well as that of the adoptive family and adopted person.

"Consent to adoption by a specified person" is a voluntary act by the parents to relinquish all parental rights of a child to a person or persons specified by the parents in the specific consent document. Consent to adoption by a specified person is further described in Section 309.70 (Freeing Children for Adoption).

"Internal legal screening" means an internal review required by the Department prior to referring a case for termination of parental rights for the purpose of freeing a child for adoption. Depending on local practice, a representative of the State's Attorney's Office may participate in the screening. The purpose of the screening is to determine whether sufficient grounds for termination of parental

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rights exist and whether adoption is in the best interest of the child. Legal screening is further described in Section 309.90.

"Legal risk placement" means the placement with a family of a child, not yet legally free for adoption, made in the best interests of the child with the intent that the family will become an adoptive resource for the child should the child become legally free for adoption.

"Parental unfitness" means a finding by the court that a person is unfit to parent a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are described in Section 309.50 (Identification of Children for Potential Adoption) and in the Adoption Act [750 ILCS 50].

"Persons approved for adoption" means persons who have been licensed as a foster family home in accordance with 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) or relative caregivers with whom children have been placed in accordance with 89 Ill. Adm. Code 301 (Placement and Visitation Services) and who also meet the certification requirements of Section 309.110(c) of this Part.

"Post-adoption services" are services meant to assist and support the family in maintaining itself in a healthy and nurturing environment and in preserving the adoption. Post-adoption services may include, but are not limited to, social, psychological, psychiatric, health, educational and adoption preservation services. Financial services are available to families and adoptees following the legal consummation of the adoption, when they are eligible for adoption assistance. Post-adoption services also address the needs of adult adoptees and their biological families to seek information and contact, when desired.

"Putative father" means a male, regardless of age, who may be a child's father, but who was not married to the child's mother on or before the date that the child was or is to be born and for whom paternity of the child has not been established in a court proceeding.

"Surrender for adoption" is a voluntary act by the parents to relinquish all parental rights of a child to an agency for the purpose of placing the child for adoption.

"Termination of parental rights" is a legal action of the court or a voluntary action by the parents which relieves the birth parents of a child of all parental responsibility for the child and deprives them of all legal rights with respect to the child.

(Source: Amended at 25 Ill. Reg. _____, effective

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ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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1) Heading of the Part: Permanency Planning2) Code Citation: 89 III. Adm. Code 315

| Section Numbers: | Proposed Action |
|------------------|-----------------|
| 315.20 | Amend |
| 315.30 | Amend |
| 315.70 | Amend |
| 315.100 | Amend |
| 315.120 | Amend |
| 315.130 | Amend |

4) Statutory Authority: The Children and Family Services Act [20 ILCS 505], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 USCA 670 et seq.), the Juvenile Court Act of 1987 [705 ILCS 405], and the Adoption Act [750 ILCS 50].

5) A Complete Description of the Subjects and Issues Involved: The Department is amending Part 315 as follows:

In Sections 315.20 and 315.30, the Department is proposing to delete the word "cultural" from the definition of "best interest of the child" and the factors to be considered in evaluating the best interests of the child. This action is being taken at the request of the Federal Office for Civil Rights which believes that the word could lead to violations of the Multi-ethnic Placement Act and Section 1808, Removal of Barriers to Inter-ethnic Adoption provisions of the Small Business Job Protection Act of 1996. The Office for Civil Rights has expressed concern that the use of culture in making child placement decisions could serve as a method of circumventing the prohibition against using race, color, or national origin in such decisions.

In Section 315.70, the Department is proposing to add the decision of whether to release foster parent/relative caregiver identifying information to the list of critical decisions. Proposed amendments to Section 315.100 require the comprehensive assessment to include an assessment of whether foster parent/relative caregiver identifying information should be released and a listing of circumstances under which the information should not be released.

Proposed amendments to Sections 315.120 and 315.130 add language regarding the release of foster parent/relative caregiver identifying information when planning family meetings and developing the service plan.

6) Will this proposed amendment replace an emergency rulemaking currently in effect? No

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- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Not applicable

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking affects private agencies under contract with the Department for case management services.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: These changes were not listed on the Department's last two Regulatory Agendas.

The full text of the Proposed Amendments begins on the next page.

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 315
PERMANENCY PLANNING

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

| Section | Purpose |
|---------|--|
| 315.10 | Definitions |
| 315.20 | Best Interests, Health and Safety of the Child |
| 315.30 | Accountability |
| 315.40 | The Need for a Permanent Home |
| 315.45 | Reasonable Efforts/Reasonable Progress |
| 315.50 | The Child's Sense of Time |
| 315.60 | The Critical Decisions |
| 315.70 | Components of the Permanency Planning Process |
| 315.80 | |

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

| Section | |
|---------|-----------------------------------|
| 315.100 | Assessment |
| 315.110 | Worker Interventions and Contacts |
| 315.120 | Family Meetings |
| 315.130 | Developing the Service Plan |
| 315.140 | Distributing the Service Plan |
| 315.150 | Revising the Service Plan |
| 315.160 | Case Reviews and Court Hearings |

SUBPART C: SELECTING THE PERMANENCY GOAL

| Section | |
|---------|---|
| 315.200 | Selection of the Permanency Goal |
| 315.205 | Return Home Within Five Months |
| 315.210 | Return Home Within One Year |
| 315.215 | Return Home Pending Status Hearing |
| 315.220 | Substitute Care Pending Court Determination on Termination of Parental Rights |
| 315.225 | Adoption |
| 315.230 | Guardianship |
| 315.235 | Independence |
| 315.240 | Cannot Be Provided for in a Home Environment |
| 315.245 | Concurrent Planning |
| 315.250 | Applicability of Reunification Services |

SUBPART D: EVALUATION AND DECISIONMAKING

Section

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the child's sense of familiarity;
continuity of affection for the child;

the least disruptive placement alternative for the child;
the child's wishes and long-term goals;
the child's community ties, including church, school, and friends;

the child's need for permanence, which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

the uniqueness of every family and child;

the risks attendant to entering and being in substitute care; and

the preferences of the persons available to care for the child.
[705 ILCS 405/1-3]

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Client service plan" means a written plan on a form prescribed by the Department that guides all participants in the plan of intervention toward the permanency goals for the children.

"Concurrent planning" means a process whereby the Department or its service provider works toward family reunification with a family whose children has been removed from the home while, at the same time, developing an alternative plan, if reunification with the family cannot be attained.

"Family" means one or more adults and children, related by blood, marriage or adoption and residing in the same household.

"Father" means a man presumed to be the natural father of a child if:

he and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage;

after the child's birth, he and the child's natural mother have

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315.300 Evaluating Whether Children in Placement Should Be Returned Home
315.305 When Reunification Is Inappropriate
315.310 Termination of Services and Planning for Aftercare

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 USCA 670 et seq.), the Juvenile Court Act of 1987 [705 ILCS 405], and the Adoption Act [750 ILCS 50].

SOURCE: Adopted at 23 Ill. Reg. 2539, effective February 1, 1999; amended at 25 Ill. Reg. _____, effective _____.

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section 315.20 Definitions

"Administrative case review" means a review of permanency planning open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subjects of the review (pursuant to 42 USCA 675). The administrative case review is also open to the participation of other professionals involved in assessing or treating the child, any legal representative of the parent or child, and the foster parents as specified in Section 316.60 (Administrative Case Reviews) of 89 Ill. Adm. Code 316 (Case Reviews, Court Hearings and Permanency Hearings).

"Best interest of the child" has been defined by law to include the following factors:

the physical safety and welfare of the child, including food, shelter, health, and clothing;

the development of the child's identity;

the child's background and ties, including familial, ~~cultural~~, and religious;

the child's sense of attachments, including:

where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

the child's sense of security;

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"Minimum parenting standards" means that a parent or other person responsible for the child's welfare is able and willing to ensure that a child is healthy and safe, which includes ensuring that the child is adequately fed, clothed appropriately for the weather conditions, provided with adequate shelter, protected from physical, mental and emotional harm, and provided with necessary medical care and education required by law.

"Parents" means the child's legal parents whose rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or by a court of law.

"Rehabilitative services plan" means a written plan developed in accordance with 59 Ill. Adm. Code 132.155 (Medicaid Community Mental Health Services), which includes identification of the problems to be addressed, the rehabilitative services to be provided and the outcomes to be achieved for eligible clients served by the Department pursuant to the Abused and Neglected Child Reporting Act, the Children and Family Services Act or the Juvenile Court Act of 1987.

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt, or

is the spouse of such a relative, or

is the child's step-father, step-mother, or adult step-brother or step-sister through a current marriage.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

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married each other, even though the marriage is or could be declared invalid, and he is named, with his consent, as the child's father on the child's birth certificate pursuant to Section 12 of the Vital Records Act;

he and the natural mother have signed an acknowledgment of paternity in accordance with rules adopted by the Illinois Department of Public Aid under Section 10-17.7 of the Illinois Public Aid Code;

he and the child's mother have signed a petition to establish the parent and child relationship by consent of the parties in accordance with Section 6 of the Illinois Parentage this Act of 1984.

A man can rebut a presumption of paternity before a court of jurisdiction. [750 ILCS 45/5]- Father also means a man who adopts a child or has been determined by court or administrative adjudication to be the child's father.

"Guardian" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"Individual Treatment Plan (ITP)" or "Treatment Plan" as defined in 59 Ill. Adm. Code 132 (Medicaid Community Mental Health Services) means a written document developed by the appropriate service provider staff with the participation of the client with a mental illness and, if applicable, the client's guardian, which specifies the client's diagnosis, problems, and service needs to be addressed, the intermediate objectives and long-term goals for the services and the planned interventions for achieving these goals.

"Individualized Education Plan/Program (IEP)" means the document prepared by the local school district, as a result of a Multi-disciplinary Conference, that identifies the specific special education services that will be provided to the child. The IEP also includes education goals, services, frequency, quantity and duration. IEP is further defined in 23 Ill. Adm. Code 226 (Special Education).

"Individualized Family Service Plan (IFSP)" means a written working document developed for each child in order to facilitate the provisions of Early Intervention (EI) services. The IFSP is created by the family, an inter-disciplinary team, the core EI agency, and the case manager (service coordinator). The EI agency is responsible for coordinating the IFSP implementation.

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"Service termination planning" means service planning that starts with the first contact with the family and which focuses on providing a smooth transition from Department guardianship or custody. It includes the receipt of child welfare services to discharge from guardianship or custody and the termination of Department funded services.

"Substitute care" means the care of children who require placement away from their families or private guardians. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301 (Placement and Visitation Services), Section 301.80 (Relative Home Placement), care provided in a group home, care provided in a maternity center or a child care, mental health or other institution, and care provided in an independent living arrangement.

"Termination of parental rights" means a court order that relieves the legal parents of parental responsibility for the child and revokes all legal rights with respect to the child. The termination order also frees the child from all obligations of maintenance and obedience with respect to the legal parents.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 315.30 Best Interests, Health and Safety of the Child

a) Best Interests, Health and Safety of the Child
 Permanency planning is an on-going process that first and foremost must consider the best interests, health and safety of the child in all planning decisions. Health and safety are the paramount factors that must be considered when determining the best interests of the child. This means that a child is or will be in a living arrangement that meets the placement selection criteria contained in 89 Ill. Adm. Code 301 (Placement and Visitation Services), and that protects the child's physical health and safety and promotes the child's emotional, medical, and developmental well-being. When evaluating the best interests of the child, the Department or its purchase of service provider shall consider the following factors as provided in the Juvenile Court Act:

- 1) the physical safety and welfare of the child, including food, shelter, health, and clothing;
- 2) the development of the child's identity;
- 3) the child's background and ties, including familial, ~~cultural~~, and religious, including the primary method and/or language of communication between the child and the biological parents or any other special communication needs;
- 4) the child's sense of attachments, including:
 - A) where the child actually feels love, attachment, and a sense

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of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

- B) the child's sense of security;
 - C) the child's sense of familiarity;
 - D) continuity of affection for the child;
 - E) the least disruptive placement alternative for the child;
 - 5) the child's wishes and long-term goals;
 - 6) the child's community ties, including church, school, and friends;
 - 7) the child's need for permanence, which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;
 - 8) the uniqueness of every family and child;
 - 9) the risks attendant to entering and being in substitute care; and
 - 10) the preferences of the persons available to care for the child. [705 ILCS 405/1-3].
- b) The child's best interests and health and safety must be considered and documented throughout service intervention and during, but not limited to, the following activities:
- 1) investigation of allegations of abuse or neglect,
 - 2) completion of safety and risk assessments,
 - 3) completion of the comprehensive assessment,
 - 4) worker/client contacts,
 - 5) service planning,
 - 6) permanency goal selection,
 - 7) family meetings,
 - 8) administrative case reviews,
 - 9) legal screenings, and
 - 10) permanency hearings and other court proceedings.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 315.70 The Critical Decisions

Although all Department decisions affecting children and families are important, the Department identifies the following decisions, which require approval of the casework supervisor, as the most critical ones affecting children and families:

- a) deciding whether services can prevent placement away from parents or primary parent figure or deciding whether to remove children from the home of parents or primary parent figure;
- b) deciding whether to recommend the return of children to the home of parents or primary parent figure from a placement away from parents or primary parent figure;
- c) deciding whether to decrease the frequency or the duration of parent and/or sibling visits with the child and whether the visits should be

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- supervised;
- d) deciding whether to release the name, address, and telephone number of the foster parent/relative caregiver to the parent and/or siblings placed apart;
 - ed) deciding whether to change children's placements;
 - fe) deciding whether to seek termination of parental rights and seek an alternate permanent home;
 - gf) deciding if children are prepared for partial or total independence; or
 - hg) deciding whether children shall be placed apart from siblings who are also placed in substitute care.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

Section 315.100 Assessment

Assessment consists of an initial assessment of a child and family to determine whether a case should be opened and services delivered, a comprehensive assessment to determine the needs of the family to provide the appropriate intervention and services, and an ongoing assessment conducted throughout the duration of time that the children and family are receiving services. Initial assessment provides a baseline of family strengths and needs by which a caseworker and supervisor can evaluate subsequent progress.

- a) Initial Assessment
 - The initial assessment consists of a preliminary assessment prior to case opening in order to:
 - 1) assess the health and safety of the children to determine whether the child can safely remain in his or her current living arrangement;
 - 2) identify the level of risk of harm to the children in the family, develop and implement a safety plan (if at any time the aggravating circumstances appropriate for expedited termination of parental rights exist, the worker shall immediately follow the instructions for expedited termination of parental rights contained in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible));
 - 3) identify what interventions and services can be provided to address the causes of abuse and neglect, and assure a child's health and safety without placement;
 - 4) identify any needs of an emergency nature, including food, shelter, and clothing;
 - 5) begin to identify and preliminarily select placement resources that meet the placement selection criteria contained in 89 Ill. Adm. Code 301 (Placement and Visitation Services); and

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- 6) identify any special communication needs the child may have, in addition to identifying the communication needs specified by the child's parents and/or legal guardians.
- b) Comprehensive Assessment

The comprehensive assessment is an assessment completed no later than 30 calendar days following case referral or case opening. During the comprehensive assessment period the worker shall conduct at least weekly face-to-face visits with the parent and any children remaining in the custody of the parent. When the parent cannot be located, a diligent search shall be made to locate the parent, as required by 89 Ill. Adm. Code 332 (Diligent Searches Conducted by the Department of Children and Family Services), and the parent's portion of the comprehensive assessment shall be completed within 30 days after the parent is located.

 - 1) The comprehensive assessment shall consist of any part of the initial assessment that has not yet been completed and the following tasks:
 - A) completion of a social history of the child and family to determine the strengths and needs of the family;
 - B) continued assessment of the health and safety and level of risk to the children in the family (if at any time the aggravating circumstances appropriate for expedited termination of parental rights exist, the worker shall immediately follow the instructions for expedited termination of parental rights.);
 - C) assessment of the parents as it relates to their ability to care for the child, including referral for diagnostic mental health and substance abuse assessment, when indicated;
 - D) for children for whom the Department has legal responsibility, the comprehensive assessment shall also include:
 - i) a compilation of the medical and immunization history of the child and, where available, relevant medical history of the child's parents;
 - ii) location of missing or non-custodial parents and other relatives and their relationship to the family;
 - iii) a preliminary, age appropriate substance abuse screening of the child, if indicated by any other component of the assessment;
 - iv) a basic educational screening including identification of the child's current school and grade level, educational history, and identification of any educational goals and needs, including the need for any further educational testing or assessments.~~7-and~~

- 2) In addition, for those children, who are placed in substitute care, the comprehensive assessment shall also include:
 - A) an initial health screening by a qualified medical provider in accordance with EPSDT standards, within 24 hours after

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placing the child in protective custody, of sufficient scope to permit the Department or purchase of service agency to ascertain enough about the current health of the child to identify:

- i) any health needs requiring immediate attention; and
 - ii) any health information needed to make an informed placement decision;
- B) a comprehensive health screen within 21 days after a child's placement in foster care that includes a physical, dental and mental health status of all children and a developmental screening on all children not yet of school age conducted by medical personnel and followed by more intensive evaluation as indicated or recommended. All children taken into Department custody are to be enrolled in Health Works within the first 21 days after the Department assumes custody.

3) For those children in foster or relative care, the comprehensive assessment shall include an assessment of whether the foster parent/relative caregiver identifying information shall be released to the parent. Identifying information of the foster parent/relative caregiver shall not be released to the child's parents or siblings in the care of their parents when any of the following is found in the assessment of the parent or other adult living in the home:

- A) A check of the Law Enforcement Agencies Data System (LEADS) identifies a conviction for any of the crimes listed in Appendix A(a)(1), (3), or (4) of 89 Ill. Adm. Code 301 (Placement and Visitation Services); or
- B) The parent or other adult living in the home has threatened violence against a foster parent/relative caregiver or Department or purchase of service agency worker; or
- C) The parent or other adult living in the home has exhibited violence against a foster parent/relative caregiver or Department or purchase of service agency worker in the past; or
- D) The parent or other adult living in the home has or has threatened to abduct or harm the child.

c) Ongoing Assessment

Ongoing assessment continues throughout the life of the case until service termination and shall be used to guide the Department or purchase of service agency in developing an appropriate case plan and guide decisionmaking concerning the Department's or purchase of service agency's reasonable efforts and the client's reasonable progress to correct conditions and/or behavior that threaten a child's health and safety. The ongoing assessment shall consist of reassessing safety and risk and the reapplication of any additional screenings as described in subsection (b) whenever the facts of the case indicate the need, until termination of services.

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(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 315.120 Family Meetings

Family meetings are a tool intended to engage the family in the planning process. Therefore, caseworkers shall make intensive efforts to persuade and encourage parents to attend the family meetings, especially during the first 90 days, by explaining to them the importance of the family meeting and of attending and cooperating with the process. Casework staff should make every effort when planning family meetings to be flexible and attempt as much as possible to schedule meetings at a time and place where parents can attend, preferably in the parent's home. Staff shall take into consideration parents' work schedules, transportation issues, availability of interpreters (if the parents' primary language of communication is other than English), and any other barriers that might prevent parents from participating. Parents shall be reminded of the court admonishment to cooperate with the Department and that refusal or chronic failure to attend family meetings may be considered by the Department and the court as a lack of reasonable progress. After reaching agreement with the parents on the date, time, location, and participants of the family meeting, the caseworker shall send a confirmation letter to the parents. Caseworkers shall document in the case file all attempts to include parents in the family meetings. Failure to attend family meetings shall also be documented in the case file.

a) Initial Family Meeting

- 1) The initial family meeting must occur within 30 days after the temporary custody hearing and includes at a minimum:
 - A) the caseworker;
 - B) the child's custodial parents;
 - C) the non-custodial parent with the following conditions:
 - i) the non-custodial parent intends to seek custody of the child; and
 - ii) there is no danger of violence between the parents; and
 - iii) no confidential information concerning the custodial parent, such as mental health information, may be shared with the non-custodial parent, unless the custodial parent consents in writing to the sharing of such information as provided in 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services). If the custodial parent does not consent to the release of confidential information, the meeting shall be conducted in segments, with the non-custodial parent excluded from any discussion that includes the information about the custodial parent that is confidential;
- D) the casework supervisor.

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- 2) In addition, at the supervisor's discretion and with the signed consent of the parent, the following may be invited:
 - A) appropriate extended family members including non-custodial parents who are not interested in seeking custody;
 - B) foster parents and relative caregivers (see subsections (f), (g), (h) and (i) below);
 - C) service providers; and
 - D) the child, if emotionally and developmentally appropriate.
- c) Purpose of Initial Family Meeting
The purposes of the initial family meeting, to be conducted by the casework supervisor, are to:
 - 1) share information among all participants;
 - 2) review the initial and comprehensive assessments;
 - 3) discuss and prepare the initial service plan; and
 - 4) determine the permanency goal.
- d) Ongoing Family Meetings
 - 1) Following the initial family meeting, family meetings will be conducted on a flexible schedule, but no less than on a quarterly basis (at least four times a year approximately three months apart). The ongoing family meeting shall include at a minimum:
 - A) the caseworker;
 - B) the child's custodial parent;
 - C) the non-custodial parent with the same conditions as specified in subsection (a)(1)(C) above;
 - D) the casework supervisor at the supervisor's discretion. However, the supervisor must attend if the non-custodial parent will be attending the meeting;
 - 2) In addition, at the supervisor's discretion and with the signed consent of the parent, the following may be invited:
 - A) appropriate extended family members, including non-custodial parents who are not interested in seeking custody;
 - B) foster parents and relative caregivers (see subsections (f), (g), (h) and (i) below);
 - C) service providers; and
 - D) the child, if emotionally and developmentally appropriate.
- e) Purposes of Ongoing Family Meetings
The purposes of the ongoing family meetings are to:
 - 1) assure disclosure of the expectations of all parties;
 - 2) assess reasonable efforts on behalf of the Department or the purchase of service agency;
 - 3) assess reasonable progress on behalf of the family;
 - 4) assess whether the plan is serving the health, safety, and best interests of the child;
 - 5) provide support for decisionmaking that recognizes the child's sense of time, including whether the permanency goal and time frames for achieving the goal should be continued, and whether services and service providers are effective;
 - 6) share information among the participants;

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- 7) evaluate whether the identified behaviors and conditions are being addressed and whether the parents are engaged in the change process;
- 8) engage in planning that involves addressing the needs of the child with appropriate services and establishing realistic time frames for achievement of tasks and goals; and
- 9) review clinical material by various service providers. Clinical reports should be obtained and collateral contacts completed prior to the staffing. Professionals should have discussed findings and recommendations with the client/family prior to the meeting to promote open and honest discussion.
- f) Prior to inviting foster parents/relative caregivers to the initial family meeting, the caseworker must consider the statutory requirement that protects foster parents' names, addresses and telephone numbers from disclosure. Such information regarding the foster parents/relative caregivers shall not be disclosed to the child's parents at the initial family meeting that occurs within the first 30 days after the temporary custody hearing.
- g) In deciding whether to invite the foster parents/relative caregivers to the meeting, the caseworker shall take into consideration the level of violence or tendency toward violence displayed by the child's parents. This shall be assessed during the first 30 days as the caseworker is conducting the comprehensive assessment. The caseworker shall use information from:
 - 1) Department safety and risk assessments;
 - 2) the social history, including information such as the parents' arrest history, history of domestic violence, and court records; and
 - 3) the caseworker's own observations.
- h) Information concerning the level or tendency toward violence of the parents/relative caregivers may be shared with the foster parents to help them decide whether to attend the initial family meeting. In no event shall the address and telephone number of the foster parents be disclosed at the initial family meeting.
- i) For all subsequent family meetings the same violence factor shall be considered when determining whether the foster parent/relative caregiver should attend and whether there is any danger to the foster parent by attending the family meeting.
- j) The participants in the family meeting will attempt to reach decisions and agree on recommendations by consensus. If a consensus cannot be reached, the final decision rests with the supervisor on all meetings.
- k) Documentation of the meeting and report of the recommendations/decisions is to be made and included in the case record.
- l) Parents have the right to appeal decisions with which they disagree in accordance with 89 Ill. Adm. Code 337 (Service Appeal Process).

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Section 315.130 Developing the Service Plan

Based on the information gathered during the assessment process described in Section 315.100 and through negotiation during the caseworker's contacts, visits, and at the initial family meeting, the caseworker and family shall develop a plan of intervention that is based on the family's strengths and needs and that addresses how the children's needs for health and safety will be met.

- a) Purpose of the Service Plan
The service plan is a written plan that is established between the Department and the children and family served, and any involved service providers. The purpose of the service plan is to:
 - 1) formulate goals for the child based on the child's needs for health, safety, and well-being that were identified during the assessment process;
 - 2) identify what actions the family, the caseworker, caregiver, and others will take to meet the needs of the child and achieve permanency;
 - 3) identify what additional interventions and services will be provided to the family, the caregiver, and the child in order to meet the child's needs and achieve permanency.
- b) State and Federal Requirement
Service plans are required by State [20 ILCS 505/6a] and Federal law (42 USCA 675) regardless of whether the child and family are served directly by the Department or through purchase of service providers. The service plan must ensure that the health and safety of the child are the paramount concerns that guide all service, placement, and planning provisions.
- c) Time Frames
The initial service plan shall be completed within 30 days after case opening and must be reviewed at least once every six months thereafter. The service plan shall be changed and updated as the child and family's situation changes and shall be reviewed regularly as specified in Section 315.150 (Revising the Service Plan).
- d) Contents of the Service Plan
Service plans shall contain the following information:
 - 1) the names of the children for whom the Department is legally responsible or to whom the Department is providing services;
 - 2) the health and safety factors that have resulted in placement of the children away from the family home and an identification of any problems that are causing continued placement of the children away from the home;
 - 3) what outcomes would be considered a resolution to these problems and the strengths the family possesses to achieve these outcomes;
 - 4) the reasons for the out of home placement and the reason why the child has been put in his or her current placement, the resources

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or other support that will be necessary to maintain the placement, and, where a residential placement has been deemed necessary, a description of how and when a plan for moving the child to the least restrictive, most homelike placement consistent with the child's best interest can be developed;

- 5) the services to be provided to the parents, for each child while in care, and the foster parents (if necessary when the child is placed in foster care) that may best resolve these problems;
- 6) the health care to be provided to the child and the mental health care to be provided to address the child's serious mental health needs as well as a description of the child's physical, developmental, educational or mental disability and any non-educational specialized services the child is receiving or should receive for each disability. If an Individual Treatment Plan (ITP) or Rehabilitative Services Plan exists for the child, it shall be attached to the service plan. To the extent available and accessible, the service plan shall incorporate the health records of the child, including:
 - A) the names and addresses of the child's health provider;
 - B) a record of the child's immunizations;
 - C) the child's known medical problems; and
 - D) the child's medications;
- 7) a description of the educational program/services the child is receiving or needs to receive (including information regarding Early Intervention, Head Start, or Pre-Kindergarten services for preschool children). If an Individualized Education Plan (IEP) or an Individualized Family Service Plan (IFSP) exists for a child, the IEP or IFSP shall be included in the record. To the extent available and accessible, the service plan shall incorporate the education records of the child, including:
 - A) the names and addresses of the child's educational providers;
 - B) the child's grade level performance; and
 - C) the child's school record;
- 8) who will provide the services, how often they will be provided, and an explanation of why these services will meet the needs of the child;
- 9) if children placed out of the parents' home are placed a substantial distance (more than 150 miles) from the home of the parents or in a different state, the reasons why the placement is in the best interests of the children;
- 10) if children placed out of the parents' home are placed in a different state, a requirement that the child be visited periodically, but not less frequently than every 12 months, by a caseworker of the Department or of the state in which the child has been placed, and that the caseworker submit a report on the visit to the Department;
- 11) if siblings are placed apart from one another, the reasons why

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they are placed apart and what efforts are being made to find a joint placement for the sibling group;

12) the permanency goal for each child and the reason for selecting the goal;

13) in the case of child for whom the permanency plan is adoption or other permanent living arrangement, documentation of the steps the Department is taking to find and adoptive family or other permanent living arrangement;

14) in the case of a child for whom the permanency plan is independence, a written description of the programs and services which will help such a child prepare for the transition from foster care to independent living;

15) the responsibilities of the family and the child (when appropriate) in fulfilling the service plan;

16) the responsibilities of the Department and purchase of service providers, if any, to assist the family in fulfilling the service plan;

17) when children and families are separated, the parent-child and/or sibling visitation plan developed with the family in accordance with 89 Ill. Adm. Code 301 (Placement and Visitation Services) if visitation is not prohibited by court order. This plan shall include the time and place of visits, the frequency of visits, the length of visits, and who shall be present at the visits;

18) whether the name, address, and telephone number of the foster parent/relative caregiver may be released to the parent as determined by the assessment conducted in accordance with Section 315.100(b)(3);

19) the time frames for achieving the permanency goal and the objectives to resolve identified problems and the specification of any consequences to the child and family if the time frames are not met;

20) a statement that the parents or children may disagree with the service plan and that they may have their disagreement recorded; and

21) an explanation of how parents or children may request an appeal and fair hearing.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Placement and Visitation Services

2) Code Citation: 89 Ill. Adm. Code 301

| Section Numbers: | Proposed Actions: |
|------------------|-------------------|
| 301.20 | Amend |
| 301.60 | Amend |
| 301.210 | Amend |
| 301.220 | Amend |
| 301.230 | Amend |
| 301.410 | New |
| 301.420 | New |
| 301.430 | New |
| 301.440 | New |
| 301.450 | New |
| 301.460 | New |
| 301.470 | New |

4) Statutory Authority: Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; Section 1-103 of the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305/1-103]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

5) A Complete Description of the Subjects and Issues Involved: The Department is amending Part 301 as follows:

In Section 301.60, the Department is proposing that all placements in licensed foster homes and unlicensed relative homes must be approved through the Placement Clearance Process at the State Central Register. The Department is also proposing sanctions for private agencies, DCFS regional offices and DCFS employees who fail to secure the approval or provide false or misleading information when requesting the approval.

The balance of the proposed amendments describes the Department's policy regarding the release of identifying information for licensed foster parents and license exempt relative caregivers in accordance with Section 35.3 of the Children and Family Services Act [20 ILCS 505/35.3].

6) Will this proposed amendment replace an emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

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Section Numbers Proposed Action Illinois Register Citation
301.90 Amend 24 Ill. Reg. 6473

10) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a state mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking affects private agencies under contract with the Department for case management services.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: The agency did not anticipate the necessity of this rulemaking.

The full text of the Proposed Amendments begins on the next page.

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 301

PLACEMENT AND VISITATION SERVICES

Section
301.1 Purpose (Renumbered)
301.2 Definition (Repealed)
301.3 Foster Care Placement Goal (Renumbered)
301.4 Plans to Achieve This Goal (Renumbered)

SUBPART A: PLACEMENT SERVICES

Section
01.10 Purpose
01.20 Definitions
301.30 Introduction
301.40 Legal Authority to Place
301.50 Emergency Placement
301.60 Placement Selection Criteria
301.70 Sibling Placement
301.80 Relative Home Placement
301.90 Foster Family Home Care
301.100 Residential Care
301.110 Care in a Medical/Psychiatric Facility
301.120 Sharing Appropriate Information with the Caregiver
301.130 Medical Examinations for Children in Placement
301.140 Education of Children While in Placement

SUBPART B: VISITATION SERVICES

Section
301.200 Purpose
301.210 Family-Child Visitation
301.220 Sibling Visitation
301.230 Contact Among Siblings Placed Apart
301.240 Grandparents Visitation

SUBPART C: FOSTER CARE PLACEMENT GOAL

Section
301.310 Purpose
301.320 Foster Care Placement Goal
301.330 Plans to Achieve This Goal

SUBPART D: FOSTER PARENT/RELATIVE CAREGIVER IDENTIFYING INFORMATION

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| Section | Purpose |
|---------|---|
| 301.410 | Confidentiality of Foster Parent/Relative Caregiver Identifying Information |
| 301.430 | Routine Disclosure of Foster Parent/Relative Caregiver Identifying Information |
| 301.440 | Specific Disclosure of Foster Parent/Relative Caregiver Identifying Information |
| 301.450 | Specific Notice of Disclosure |
| 301.460 | Disclosure Prohibited |
| 301.470 | Redisclosure Prohibited |

APPENDIX A Criminal Convictions which Prevent Placement of Children with Relatives

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; Section 1-103 of the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305/1-103]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 7 Ill. Reg. 881, effective January 12, 1983; amended at 9 Ill. Reg. 9904, effective July 1, 1985; amended at 19 Ill. Reg. 9438, effective July 1, 1995; emergency amendment at 20 Ill. Reg. 3961, effective February 16, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 4602, effective March 15, 1996; amended at 20 Ill. Reg. 9036, effective July 11, 1996; amended at 20 Ill. Reg. 9518, effective July 5, 1996; amended at 21 Ill. Reg. 13580, effective October 1, 1997; amended at 23 Ill. Reg. 13062, effective October 20, 1993; emergency amendment at 24 Ill. Reg. 6427, effective March 27, 2000, for a maximum of 150 days; emergency expired August 23, 2000; amended at 25 Ill. Reg. _____, effective _____.

SUBPART A: PLACEMENT SERVICES

Section 301.20 Definitions

"Administrative case review" or "ACR" means case reviews required by 42 USCA 675(1) and 20 ILCS 505/6a.

"Biological father" means a man who was not married to the mother when the child was born and who has acknowledged his paternity in open court, or who has signed a statement acknowledging paternity, or who is legally presumed to be the father because he married the child's mother after the child's birth and his name appears on the child's official record of birth, or whose paternity is adjudicated in court. When paternity has been established in the above manner, the relatives of the biological father as well as those of the mother may be

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considered for the placement of related children.

"Child only standard of need" means the assistance standard for cases in which no adult member is included, as established by the Illinois Department of Human Services in 89 Ill. Adm. Code 111 (Assistance Standards).

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents signed an adoptive surrender or voluntary placement agreement with the Department.

"Contact between siblings", as used in this Part, means telephone and written communication among siblings who are placed apart from one another.

"Department" as used in this Part, means the Department of Children and Family Services.

"Diligent search", as used in this Part, means the efforts used by the Department to find a joint placement for siblings who must be placed apart from their families. Diligent search is further defined in Section 301.70(c) of this Part.

"Family" means one or more adults and children, related by blood, marriage, or adoption and residing in the same household.

"Father" means a man presumed to be the natural father of a child if:

- he and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage;
- after the child's birth, he and the child's natural mother have married each other, even though the marriage is or could be declared invalid, and he is named, with his consent, as the child's father on the child's birth certificate pursuant to Section 12 of the Vital Records Act;
- he and the natural mother have signed an acknowledgment of paternity in accordance with rules adopted by the Illinois Department of Public Aid under Section 10-17.7 of the Illinois Public Aid Code; or
- he and the child's mother have signed a petition to establish the parent and child relationship by consent of the parties in accordance with Section 6 of this Act.

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A man can rebut a presumption of paternity before a court of jurisdiction [750 ILCS 45/5]. Father also means a man who adopts a child or has been determined by court or administrative adjudication to be the child's father.

"Federally-funded foster care" means foster care maintenance payments made in accordance with Title IV-E of the Social Security Act for which federal matching grants are received.

"Foster care payment" means the amount paid by the Department for a child's room, board, clothing, and personal allowance in a licensed foster family home.

"Joint placement", in the context of sibling placement, means the siblings are placed in the same substitute care setting.

"LEADS" means Law Enforcement Agency Data System.

"Parents" means the child's legal parents whose parental rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent family placement" means placement in a foster family home or a relative home that ~~which~~ is intended to last until the child reaches age 21 or until the child is capable of self-sufficiency. The Department may retain guardianship of the child or the foster parent or relative may assume guardianship of the child.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or a court of law.

"Placement Clearance Process" means the approval of a child's placement in foster care or unlicensed relative care from the State Central Register.

"Region" means Cook County or any of the downstate Department of Children and Family Services regions.

"Relative," for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

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- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt, or

- is the spouse of such a relative, or

- is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"Residential facility", for the purposes of the Aristotle P. Consent Decree, means all non-foster care or relative home care placements.

"Service plan" means a written plan on a form prescribed by the Department in the plan toward the permanency goal for the children required by 42 USC 675(5), 325 ILCS 5/8.2, and 89 Ill. Adm. Code 315 (Permanency Planning).

"Short-term diagnostic placement" means a placement limited to 30 days after the time period deemed clinically necessary to complete the appropriate diagnostic evaluation or treatment, and in no event shall last more than 90 days.

"Siblings" mean children in the custody or guardianship of the Department who have a shared biological or adoptive parent.

"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care of a child for whom the Department is legally responsible provided in a relative family home, care provided in a group home, and care provided in a child care or other institution.

"Visitation", as used in this Subpart, means face-to-face contact between parents and their children who are in substitute care or among siblings who are placed apart from one another.

"Voluntary placement agreement" means a time-limited written request and consent from a parent, guardian or legal custodian of a child for placement of the child out of the home. When signed by designated Department staff, the Department agrees to provide child welfare services which include placement.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Section 301.60 Placement Selection Criteria

a) Placement decisions will be made consistent with the safety, best interests and special needs of the child. When a child is removed from the care of a custodial parent, the placing worker shall explore the care of the non-custodial parent would be a suitable caregiver for the child. Placement with the non-custodial parent is not consistent with the safety, best interests and special needs of the child or if the non-custodial parent is not a suitable caregiver for the child, placement in substitute care shall be considered.

b) Substitute care placement decisions consistent with the safety, best interests and special needs of the child shall be made in consideration of the following:

- 1) the least restrictive setting appropriate for the child which most closely approximates a family;
- 2) placement within reasonable proximity to the child's home when the permanency goal is return home, and within the child's school district, whenever possible, taking into account any special needs of the child and family, the importance of maintaining continuity of the children's educational and social relationships, and the availability of the service resources needed for the child and family;
- 3) the ability of prospective foster or adoptive parents to meet the needs of a child. Placement in a foster or adoptive family home shall not be denied or delayed on the basis of the race, color, or national origin of the child, or the foster or adoptive family home members, nor shall placement for adoption of a child be denied or delayed if an approved family is available either outside of the Department's region handling the case or outside of the State of Illinois; and
- 4) placement, if the child is of American Indian heritage, according to criteria described in 89 Ill. Adm. Code 307 (Indian Child Welfare Services).

c) Approval through the Department's Placement Clearance Process is required prior to all placements in licensed foster family homes and unlicensed relative homes.

d) When a private agency or DCFS worker fails to secure prior approval for a placement in a licensed foster family home or unlicensed relative home through the Placement Clearance Process or provides false or misleading information when requesting an approval, the Director may take progressive action including, but not limited to:

- 1) placing the worker's private agency or DCFS region on hold for cases; and
- 2) implementing progressive discipline for the DCFS worker.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Section 301.210 Family-Child Visitation

a) The Department recognizes that there is a strong correlation between regular parental visits and contacts with a child and the child's discharge from placement services. Therefore, when a child is in placement and the permanency goal is return home, parent-child visits, telephone calls at reasonable hours, and mail are encouraged unless they have been prohibited by court order. The name, address and telephone number of the foster parent/relative caregiver shall not be disclosed to the parents until the assessment has been completed and a determination has been made whether to disclose the information in accordance with Section 301.440(a). The responsible agency shall arrange for parent-child visits and shall advise parents that repeated failure to visit according to the visiting plan shall be considered a demonstration of a lack of parental concern for the child and may result in the Department seeking a termination of parental rights.

b) When the permanency goal is return home, a visiting plan shall:

- 1) be established before placement or within three working days after placement out-of-home unless the placement was an emergency;
- 2) be established within ten working days after an emergency placement;
- 3) specify that visits are to begin immediately;
- 4) specify that parents shall be expected to visit weekly unless there is documentation to the contrary in the case/record;
- 5) increase in length unless specific harm to the child is caused by the visits;
- 6) specify visiting in the home of the child's parents, if consistent with the safety and well-being of the child. When visits in the home of the child's parents are not consistent with the child's safety and well-being, visits shall be in the most homelike setting possible. Office visits are acceptable if structure is necessary to evaluate or protect the child; and
- 7) specify how contacts are to be maintained if the determination has been made not to release identifying information regarding the foster parent/relative caregiver in accordance with Section 301.440(a); and
- 8) specify the responsibilities of the Department, the purchase of service providers, the parents, and the child in regard to visitation.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 301.220 Sibling Visitation

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a) The Department or purchase of service agency shall schedule and provide visits among all siblings in substitute care who are placed apart at least twice per month, beginning no later than two weeks after the Department is awarded temporary custody of any sibling, unless:

- 1) a court has ordered that sibling visits occur less frequently or not at all;
 - 2) the child has stated that he or she does not want to visit with his or her siblings ~~siblings~~ or wants to visit less frequently and has been counseled by the Department on the importance of maintaining family ties. If such a child is age 16 or under, the Department shall inquire of the child at least quarterly whether he or she wants to resume or increase the frequency of visits; or
 - 3) one sibling may physically, mentally, or emotionally harm another during the visit, and supervision would be inadequate to eliminate the risk of such harm as determined by prior observation or documentation of their interaction as recorded in the child's case file.
- b) If a sibling is placed in a residential facility, visitation with that child may occur less frequently than twice per month if:

- 1) the child is at risk of physical harm if he or she visits with his or her siblings and that harm is specifically documented in the child's case file;
- 2) the child is at risk of mental or emotional harm if he or she visits with his or her siblings as determined by a qualified mental health professional; or
- 3) the child is placed in a residential facility that is located more than 150 miles from his or her siblings, provided, however, that in such event the Department shall provide the child a visit with his or her siblings, preferably overnight, at least every other month.

c) If the frequency of visits between two siblings is reduced to less than twice per month, the frequency of each child's visits with the other siblings ~~siblings~~, if any, and of the other siblings' visits with each other shall not be reduced except for the reasons stated in subsections (a)(1) through (3) or (b)(1) through (3) above of this Section, or by order of a court.

d) Neither the Department nor its contractual agencies shall reduce nor seek to have a court reduce the frequency of visits based on the unavailability of a supervisor for the visits or as a form of discipline.

e) Visits may begin sooner than two weeks after the Department is awarded temporary custody of a sibling, if the siblings express a desire to see each other, no court has prohibited visits, and a qualified supervisor (if deemed necessary) and an appropriate time and location for visits have been identified.

f) A sibling visitation plan, specifying the frequency of sibling visits, shall be developed by the siblings' caseworkers ~~caseworker(s)~~, foster

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parents, and the children (seven years of age and older) within 30 days after award of temporary custody of the siblings. The sibling visitation plan shall be included in the children's case plans.

g) The sibling visitation plan may be included as a part of and implemented in coordination with a plan for parent-child visits developed in accordance with Section 301.210, Family-Child Visitation. The frequency of sibling visitation shall in no way be affected by the failure of any parent to visit his or her children for any reason.

h) The sibling visitation plan shall specify the duration of sibling visits and may also include the location and supervision to be provided for visits. A brief statement of the reasons for selecting the frequency and duration of sibling visits as specified in the visitation plan shall also be recorded in the plan.

i) No changes shall be made in the sibling visitation plan without prior consultation with the siblings (seven years old and older) and with the siblings' foster parents unless there is substantial risk of harm to the child if the visits continue unchanged. The sibling visitation plan and its implementation shall be reviewed at each child's administrative case review.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 301.230 Contact Among Siblings Placed Apart

a) If the Department determines that it is in the child's best interests to be provided information on a sibling's whereabouts or to have his or her whereabouts provided to his or her siblings, and no court has prohibited disclosure of this information, the Department shall promote contact and communication among siblings placed apart by taking the following actions:

- 1) the Department or purchase of service agency shall provide children who are seven years old and older and their foster parents or other caregiver with each sibling's birth date and the name, address, and telephone number of the foster parent or other caretaker of each sibling placed by the Department in substitute care. The Department shall also provide such information regarding siblings in the custody of a parent, if that information is or becomes known to the Department;
- 2) the Department or purchase of service agency shall provide children who are seven years of age and older who are in the care of their parents with the name, address and telephone number of children under the custody/guardianship of the Department, unless:

A) the Department or purchase of service agency has determined that it is not in the child's best interests to provide information on his or her whereabouts to his or her siblings, and the Department has notified each child's

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attorney and guardian ad litem in accordance with subsection (b);

B) the Department or purchase of service agency has determined that identifying information of the foster parent/relative caregiver shall not be released to the sibling based on the results of the assessment completed in accordance with Section 301.440(a), and each child's attorney and guardian ad litem has been notified in accordance with Section 301.440(b); or

C) a court has prohibited disclosure of this information;

3) whenever a child is moved to another placement, the Department shall give written notice of the name, address, and telephone number of the child's new foster parent or other caregiver to each sibling and the foster parent or other caregiver of each sibling in writing within seven days after the move; and

4) the Department shall permit and shall encourage foster parents and caregivers to assist children to write and phone their siblings as often as the children wish, provided, however, that, if necessary, a plan for scheduling reasonable phone calls may be established by the children's caseworker, together with the foster parent or other caregiver and the children. This plan shall be incorporated in the children's service plans. The Department shall also facilitate the use of mail for siblings' contact with each other, including payment of postage.

) If the Department determines that it is not in a child's best interests to be provide information on a sibling's whereabouts or to have information on his or her whereabouts provided to his or her siblings, the Department shall notify each child's attorney and guardian ad litem in writing within seven days after that determination. The Department shall also record the reasons for that determination in the children's case records.

c) Neither the Department nor its contractual agencies shall restrict or seek to have any court restrict contact among siblings as a form of discipline under any circumstances.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART D: FOSTER PARENT/RELATIVE CAREGIVER IDENTIFYING INFORMATION

Section 301.410 Purpose

The purpose of this Subpart is to describe the Department's policy regarding the release of identifying information for licensed foster parents and license exempt relative caregivers.

(Source: Added at 25 Ill. Reg. _____, effective _____)

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Section 301.420 Confidentiality of Foster Parent/Relative Caregiver Identifying Information

In accordance with Section 35.3 of the Children and Family Services Act [20 ILCS 505/35.3], identifying information regarding licensed foster parents and license exempt relative caregivers shall be regarded as confidential. The name, address or telephone number of a foster parent or relative caregiver shall be disclosed only as provided by this Subpart.

(Source: Added at 25 Ill. Reg. _____, effective _____)

Section 301.430 Routine Disclosure of Foster Parent/Relative Caregiver Identifying Information

a) Identifying information regarding foster parents or relative caregivers, including names, addresses, telephone numbers, and primary language or preferred mode of communication, may be disclosed to the following persons only when appropriate and necessary for the delivery of child welfare services. Such information shall not be redisclosed except in conformance with this Subpart.

1) Department and private child welfare agency staff responsible for the delivery of services to the child, the family, or the foster parents;

2) State's Attorneys and Assistant State's Attorneys;

3) Guardians Ad Litem (attorneys appointed to represent the child's best interests in Juvenile Court) for children placed in the foster family/relative caregiver home;

4) Court personnel;

5) Court appointed special advocates;

6) Administrative Case Review staff;

7) Medical providers providing care to the child;

8) The child's school and educators;

9) Other service providers for the children in care;

10) Children who are seven years of age or older under the custody/guardianship of the Department who are siblings of children placed with the foster parent/relative caregiver in accordance with Section 301.220 (Sibling Visitation) and Section 301.230 (Contact Among Siblings Placed Apart), unless a decision has been made to withhold the information in accordance with Section 301.440;

11) Illinois Department of Public Aid (for purposes of processing Medicaid claims);

12) Quality assurance staff employed or contracted by the Department to conduct quality assurance reviews;

13) Social Security Administration;

14) Researchers whose research has been approved by the Department in accordance with 89 Ill. Adm. Code 432 (Research Involving

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Children and Families); and
 15) Statewide foster parent associations or other foster parent groups recognized by the Department.

- b) When a license is issued to foster parents or upon placement of a child with a relative caregiver, the Department or purchase of service agency shall give written notice to the foster parent/relative caregiver that the foster parent's/relative caregiver's name, address and telephone number will be released to the persons identified in subsection (a) above, as necessary to provide services, without further subsequent notice.

(Source: Added at 25 Ill. Reg. _____, effective _____)

Section 301.440 Specific Disclosure of Foster Parent/Relative Caregiver Identifying Information

a) Assessment

During the first 30 days after the child comes into care, the Department or purchase of service agency shall conduct an assessment in accordance with 89 Ill. Adm. Code 315 (Permanency Planning), Section 315.100 (Assessment). Identifying information of the foster parent/relative caregiver shall not be released to the child's parents or siblings in the care of their parents when any of the following is found in the assessment of the parent or other adult living in the home:

- 1) A check of the Law Enforcement Agencies Data System (LEADS) identifies a conviction for any of the crimes listed in Appendix A(a)(1), (3), or (4) of this Part; or
- 2) The parent or other adult living in the home has threatened violence against a foster parent/relative caregiver or Department or purchase of service agency worker; or
- 3) The parent or other adult living in the home has exhibited violence against a foster parent/relative caregiver or Department or purchase of service agency worker in the past; or
- 4) The parent or other adult living in the home has threatened to abduct or harm the child.

- b) When a decision is made based on the assessment completed in accordance with subsection (a) not to disclose the identifying information of the foster parent/relative caregiver to siblings in the care of their parents, the Department or purchase of service agency shall notify each child's attorney and guardian ad litem in writing within seven days after that determination and shall provide information from the assessment to justify the decision.

c) Disclosure to Parents When the Goal is Return Home

- 1) When the child's permanency goal is return home, parent-child visits, telephone calls at reasonable hours and mail shall be encouraged in accordance with the service plan and Section

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301.210(a) (Family-Child Visitation). The name, address and telephone number of the foster parent/relative caregiver shall not be disclosed to the parents until the assessment has been completed and a determination has been made whether to disclose the information.

- 2) If, based on the assessment in subsection (a) above, the Department or purchase of service agency determines that the name, address and telephone number of children under the custody/guardianship of the Department should be released to the parents, the Department shall notify the foster parent/relative caregiver in accordance with Section 301.450.

- d) Disclosure to Siblings in the Care of Their Parents
 The Department or purchase of service agency shall provide children who are seven years of age and older who are in the care of their parents with the name, address and telephone number of children under the custody/guardianship of the Department in accordance with Section 301.230 (Contact Among Siblings Placed Apart), unless:

- 1) the Department or purchase of service agency has determined that it is not in the child's best interests to provide information on his or her whereabouts to his or her siblings, and the Department or purchase of service agency has notified each child's attorney and guardian ad litem in accordance with Section 301.230(b);
- 2) the Department or purchase of service agency has determined that identifying information of the foster parent/relative caregiver shall not be released to the sibling based on the results of the assessment completed in accordance with subsection (a) and the Department or purchase of service agency has notified each child's attorney and guardian ad litem in accordance with subsection (b); or

- 3) a court has prohibited disclosure of this information.

- e) Other Permissible Disclosure
 The name, address and telephone number of foster parents or relative caregivers may be given to persons other than those listed in subsections (a) and (b) above, as necessary to provide services described in the service plan when specific notice has been given in accordance with Section 301.450.

(Source: Added at 25 Ill. Reg. _____, effective _____)

Section 301.450 Specific Notice of Disclosure

When the Department or purchase of service agency makes a decision to disclose the name, address or telephone number of the foster parents or relative caregivers to anyone other than the individuals listed in Section 301.430, the foster parents or relative caregivers shall be informed in writing of this decision prior to disclosure. The notice shall inform the foster parents or relative caregivers that:

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- a) They have ten calendar days from the date of such notice in which to request a decision review from the Department or purchase of service agency in accordance with 89 Ill. Adm. Code 316 (Administrative Case Reviews and Court Hearings), Section 316.90 (Decision Review); and they have ten calendar days to seek an order of protection under Section 2.25 of the Juvenile Court Act of 1987 [705 ILCS 405/2.25].
- b) No identifying information regarding the foster parents or relative caregivers shall be disclosed until ten calendar days after the date of the notice. If, during this ten day period, the foster parent or relative caregiver has requested a decision review, release of the information shall be postponed until the decision review has been completed. The foster parent or relative caregiver shall notify the parent or purchase of service agency worker or the worker's supervisor that a decision review has been requested; and if the foster parent or relative caregiver disagrees with the decision to disclose the information, the foster parent or relative caregiver may seek an order of protection under Section 2.25 of the Juvenile Court Act of 1987 [705 ILCS 405/2.25].

(Source: Added at 25 Ill. Reg. _____, effective _____)

Section 301.460 Disclosure Prohibited

The Department or purchase of service agency shall not release the name, address and telephone number of the foster parent/relative caregiver to the child's parents when:

- a) A court has issued a valid order of protection in accordance with Section 2.25 of the Juvenile Court Act [705 ILCS 405/2-25];
- b) The parental rights of the parents have been judicially terminated; the parents have surrendered the child for adoption, or the parents have signed a consent to adoption by a specified person and continued contact between parents and child is not a part of the client service plan; or
- c) The child has a permanency goal other than return home and the child has no siblings residing in the home of the parent.

(Source: Added at 25 Ill. Reg. _____, effective _____)

Section 301.470 Redisclosure Prohibited

- a) A person to whom disclosure of a foster parent's/relative caregiver's name, address, or telephone number is made under this Subpart shall not redisclose that information except as provided in the Children and Family Services Act, the Juvenile Court Act of 1987, or the Abused and Neglected Child Reporting Act. Any person who knowingly and willfully rediscloses a foster parent's/relative caregiver's name, address, or

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- telephone number in violation of this Subpart is guilty of a Class A misdemeanor. [20 ILCS 505/35.3(b)]
- b) The Department or purchase of service agency shall provide written notice of the provisions of subsection (a), including the penalty for a Class A misdemeanor, to anyone to whom the Department discloses a foster parent's/relative caregiver's name, address, or telephone number. [20 ILCS 505/35.3(c)]
- c) If a person to whom disclosure of a foster parent's/relative caregiver's name, address or telephone number is made has reason to believe that disclosure to another individual is warranted, the person shall contact the Department or purchase of service agency to request disclosure of the information, if appropriate, in accordance with the provisions of this Subpart.
- d) This Section is not intended to preclude reporting of crimes or of child abuse or neglect to appropriate authorities.
- e) This Section is not intended to override or preclude or violate any common law or statutory confidentiality provisions, such as attorney/client or therapist/client privileges.

(Source: Added at 25 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Partner Abuse Intervention

2) Code Citation: 89 Ill. Adm. Code 501

3) Section Numbers: Proposed Action:

| | |
|---------|-----|
| 501.10 | New |
| 501.20 | New |
| 501.30 | New |
| 501.40 | New |
| 501.50 | New |
| 501.60 | New |
| 501.70 | New |
| 501.80 | New |
| 501.90 | New |
| 501.100 | New |

4) Statutory Authority: Implementing Section 5.463 of the State Finance Act (Domestic Violence Abuser Services Fund) [30 ILCS 105/5.463], the Illinois Domestic Violence Act of 1986 [750 ILCS 60], and Section 5-9-1.11 of the Unified Code of Corrections [730 ILCS 5/5-9-1.11].

5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking is being submitted to implement Section 5.463 of the State Finance Act (Domestic Violence Abuser Services Fund). The Domestic Violence Abuser Services Fund statute states that monies from the fund will be granted to abuser services programs in compliance with protocols promulgated by the Department for such programs. Current Department policy is to approve or disapprove programs based on their compliance with the standards contained in this rule.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures

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Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield IL 62762
Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This a newly developed rule, therefore it was not anticipated at the time the July 2000 Regulatory Agenda was filed.

The full text of the Proposed Rule begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 501
PARTNER ABUSE INTERVENTION

SUBPART A: STANDARDS

- Section 501.10 Definitions
- 501.20 Introduction
- 501.30 Purpose
- 501.40 Review Process
- 501.50 Hearing and Appeal Grievance Procedures
- 501.60 Case-by-Case Resolution
- 501.70 Monitoring

SUBPART B: PROGRAM REQUIREMENTS

- Section 501.80 Design
- 501.90 Educational Component
- 501.100 Other Components

AUTHORITY: Implementing Section 5.463 of the State Finance Act [30 ILCS 105/5.463], the Illinois Domestic Violence Act [750 ILCS 60], and Section 5-9-1.11 of the Unified Code of Corrections [730 ILCS 5/5-9-1.11].

SOURCE: Adopted at 25 Ill. Reg. _____, effective _____.

SUBPART A: STANDARDS

Section 501.10 Definitions

"Compliance proposal" - an application a program must submit to the Department for determination of compliance with the Department's standards for programs that work with perpetrators of domestic violence.

"Department" - the Illinois Department of Human Services.

"Domestic violence and abuse" - physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but not reasonable direction of a minor child by a parent or person in loco parentis. [750 ILCS 60/103]

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"Domestic violence victim services program" - a program that offers comprehensive services to domestic violence victims and their children by trained domestic violence staff and/or volunteers. Comprehensive services include, at a minimum, legal advocacy, counseling specific to domestic violence (individual and/or group), and 24-hour shelter or access to such shelter.

"Facilitators" - persons who guide group discussions with, and/or present educational material to, participants of partner abuse intervention programs. Facilitators must be trained according to the guidelines indicated in this Part.

"Participants" - Individuals who, because of partner abuse, have been convicted of crimes, those who could have been convicted of crimes had they been prosecuted, or those who could have been prosecuted had they been arrested. These individuals have been ordered by the court to attend Partner Abuse Intervention Programs or have voluntarily chosen to attend those programs.

"Partner Abuse Intervention Programs" (PAIPs) - programs that work with participants to assist them in recognizing and understanding behaviors that lead to violence directed at their partners. PAIPs can be part of private therapeutic practices or multi-service agencies or can be programs dedicated entirely to working with abusers.

"Victim of domestic violence" - an adult or a minor involved in a dating or engagement relationship against whom an individual has perpetrated intimate partner violence.

Section 501.20 Introduction

The Department has established standards for programs that work with individuals who commit domestic violence. To be approved as compliant with the standards, partner abuse intervention programs (PAIPs) must comply with Subpart B of this Part. PAIPs work with individuals who, because of their abusive acts, have been convicted of crimes, those who could have been convicted of crimes had they been prosecuted, or those who could have been prosecuted had they been arrested.

Section 501.30 Purpose

The purposes of the standards are:

- a) To establish minimum expectations of PAIPs for compliance review, monitoring and evaluation, and as guidelines for future program improvement;
- b) To ensure the safety and rights of victims and their children;
- c) To reduce and prevent domestic violence through effective intervention programs;

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- d) To ensure participants receive services that are effective;
- e) To ensure participants are held accountable for their abusive behavior;
- f) To provide recognition of current, appropriate intervention methods;
- g) To inform the public about the nature of services and standards of PAIPs; and
- h) To encourage statewide communication and interaction among service providers and related agencies towards the goal of ending domestic violence.

Section 501.40 Review Process

Compliance proposals from PAIPs seeking approval must be submitted to the Department. The Department will publish lists of approved PAIPs up to three times a year. The Department will notify listed programs of renewal dates and procedures. All compliance proposals will be reviewed by the Department and a committee of the Department's Domestic Violence Advisory Council. Committee members will make recommendations to the Department regarding the PAIP's compliance status, but the Department will make the final decision regarding approval. Each PAIP that submits a completed, signed compliance proposal will be notified, in writing, of the Department's disposition.

Section 501.50 Hearing and Appeal Grievance Procedures

Should a PAIP wish to appeal the decision made by the Department, the PAIP must submit a written grievance to the Department within 30 calendar days after the denial. The Department, upon receipt of the written grievance, shall respond within 45 calendar days. The decision of the Department shall be final.

Section 501.60 Case-by-Case Resolution

Each grievance will be considered and resolved based on materials submitted by the grievant. Disposition of a grievance, whether through the granting of requested relief or otherwise, shall not constitute a precedent on which any other grievant should rely.

Section 501.70 Monitoring

The Department will monitor PAIPs for continued compliance with the standards.

SUBPART B: PROGRAM REQUIREMENTS

Section 501.80 Design

PAIPs must be designed to address violent and abusive behavior in the context of the standards set forth in Sections 501.90 and 501.100.

Section 501.90 Educational Component

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- a) **Format and Structure**
PAIP staff shall conduct educational sessions that participants must complete to graduate from the program. This component must consist of no fewer than 16 sessions, conducted weekly or once every two weeks, and include at least 32 hours of direct program contact, which does not include intake and assessment. Up to 4 hours of individual counseling may be included, but all remaining hours must be group work unless individual circumstances contraindicate group involvement.
- b) **Content**
 - 1) PAIPs must educate participants about the causes and forms of domestic violence.
 - 2) PAIPs must provide participants with skills for handling conflict situations without becoming abusive.
 - 3) PAIPs must promote attitudes that are associated with non-abusive behavior and challenge attitudes that are associated with abusive behavior.
 - 4) PAIPs must contain components that assist participants to develop skills for non-abusive behavior and equal partnerships. These components include, but are not limited to: non-violent conflict resolution; assertive, non-aggressive communication; and achievement and maintenance of positive, healthy, nurturing, and non-abusive parenting.
- c) **Inappropriate Intervention Techniques**
Inappropriate interventions include:
 - 1) Models that stress couples and family counseling and therapy. Some PAIPs may choose to provide or refer participants and their partners for other services in which they will be seen jointly, not as a treatment for domestic violence, but to address other issues. If this is to be done, the following conditions must be met:
 - A) the participant has been violence-free for six months;
 - B) a determination by the participant's counselor and victim's advocate that it is appropriate, not automatic at a set time;
 - C) an affirmative desire by the victim, which must include provision for safety at the facility;
 - D) separate screening of the participant and victim;
 - E) a determination that the victims do not hold themselves responsible for the abuse and that the victim is aware of resources and knows how to use them;
 - F) an affirmative statement from the participant that he accepts full responsibility for his actions;
 - G) the joint arrangement must be able to be terminated at any time in the process; and
 - H) the victim must never be required to attend counseling as a condition of service for the participant.
 - 2) Models that suggest victims are responsible for the abuse they receive.

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- 3) Models that deny a participant's personal responsibility for violence.
- 4) Models that encourage the expression of rage.
- 5) Anger management techniques that place primary causality on anger and/or are the sole intervention rather than one part of a comprehensive treatment approach.
- 6) Approaches that identify and treat violence as an addiction and the victim as enabling or co-dependent in the violence.
- 7) Theories or techniques that identify poor impulse control as the primary cause of the violence.
- d) Facilitator Teams and Group Composition
 - 1) Groups must be co-facilitated.
 - 2) Former perpetrators of domestic violence may co-facilitate, but only with another facilitator who has never been a perpetrator of domestic violence.
 - 3) Male and female participants must not be in the same group.
 - 4) The group size and age of participants should be appropriate to the intervention strategies.

Section 501.100 Other Components

- a) Service Coordination

PAIPs must establish and maintain cooperative working relationships with domestic violence victim services programs. PAIPs must also collaborate with other related individuals and agencies such as victims of domestic violence; victim advocates; State and local coalitions; mental health agencies; law enforcement; prosecution; judiciary; corrections facilities; medical personnel; substance abuse treatment providers; public health agencies; child protective service agencies; and any other agency involved in the delivery of services to participants, victims, and their children.
- b) Public Awareness

PAIPs must contribute to public awareness of the seriousness of domestic violence and coordinate public education and other prevention efforts with domestic violence victim services programs.
- c) Intake Process/Intake Assessment

At intake, an assessment of the participant must be conducted and must include, but not be limited to, the following:

 - 1) obtaining background information on the participant, violence used in the participant's family of origin, any partners of the participant, other relationships of the participant, criminal history and pending court actions;
 - 2) obtaining from the participant a descriptive history of the use of violence and other abusive behaviors, including those both within and outside the intimate relationship with special attention given to possible incidents of child abuse or neglect by the participant;
 - 3) assessing the participant for severe mental health problems or

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- disruptive behavior and referring to appropriate treatment, if appropriate;
- 4) screening for chemical dependency problems and following the procedures as outlined in subsection (e) of this Section;
- 5) assessing the degree of current risk to the victim or others, which may include information gathered directly from the victim about the participant's use of violence and other abusive behaviors, provided such contact with the victim can be done safely;
- 6) determining the precipitating incident; and
- 7) identifying the referral source.
- d) Exclusion

PAIPs must make a determination of whether an individual can benefit from the services at the initial assessment. This determination can be revised subsequently, based on additional information. Individuals who cannot benefit from the services must be referred for appropriate treatment. This would not preclude them from re-entering the PAIP when they meet the criteria.
- e) Substance Abuse

If the initial intake evaluation or subsequent evidence indicates drug and/or alcohol abuse, substance abuse treatment referrals must be initiated. Substance abuse must be addressed either prior to, or in conjunction with, and separate from, the PAIP.
- f) Abuse and Neglect of Children and other Family Members

If the intake assessment or subsequent contact reveals the possibility or actuality of child abuse or neglect, the PAIP must report it to the Department of Children and Family Services (DCFS). The PAIP must refer suspected cases of elder abuse, neglect and financial exploitation to the Department on Aging's Elder Abuse and Neglect Program.
- g) Contracts with Participants

PAIPs must establish a written contract with each participant that clearly spells out the obligations of the participant to the program. Reporting standards as described in subsections (m)(1) and (2) of this Section must be included in the contract.
- h) Completion Standards

PAIPs must develop standards that participants must meet in order to complete the program. These standards must include, at a minimum:

 - 1) fulfillment of all contractual requirements;
 - 2) admission of abuse, taking responsibility, and understanding of contributing factors;
 - 3) demonstration of understanding alternatives to abusive behavior and report use of those alternatives;
 - 4) demonstration of use of respectful language regarding a partner and understanding of benefits of egalitarian relationships;
 - 5) completion of any other PAIP requirements (i.e., substance abuse and/or mental health evaluations and treatment, etc.);
 - 6) no recent evidence of abusive behavior (information regarding the

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abuse can only be used if it will not endanger the victim); and recognition that evidence of attitude/belief change indicated in the group may not always translate to behavior change in the relationship with a partner.

i) Evaluation

PAIPs must develop methods for evaluating their effectiveness. At a minimum, PAIPs must use the criteria outlined in subsection (h) of this Section in the evaluations.

j) Victim Safety

1) PAIPs that are not part of domestic violence victim services programs must refer victims to such programs.

2) PAIP's policies and procedures must reflect program's priority of the safety and autonomy of victims and their children.

k) Ethical Standards

1) PAIPs and their personnel must meet standards outlined by professional groups with which they are affiliated.

2) Group facilitators must be violence-free in their own lives.

3) Group facilitators must consistently act and communicate in ways that do not perpetuate discriminatory attitudes or bias.

l) Confidentiality

1) Victim reports or notes must not be included in any participant's file.

2) Written or verbal reports of the partner's or victim's calls, comments or input must not be accessible to the participant.

3) Participants entering a PAIP are required to sign a release of information. The release must allow access to information, as needed, from the following entities:

- A) relevant law enforcement, criminal justice, and court authorities;
- B) mental health agencies;
- C) victims of the abuse;
- D) relevant significant others;
- E) any persons or agencies to which the program would need to report compliance or subsequent or threatened abuse, an assessment or related ongoing data to plan for proper intervention, and/or to collaborate on an ongoing basis on an intervention plan.

m) Reporting

1) Facilitators and PAIPs must immediately report additional violence perpetrated or revealed by any participant involved in court-ordered PAIPs to appropriate authorities in the criminal justice system, with the following two exceptions:

- A) If the report originates with the victim, the victim's consent must be obtained before reporting to authorities or confronting the participant with the information.
- B) Reports of violence received from a third party, e.g., family or friend, may be reported to authorities except if to do so would place the reporter or victim in jeopardy.

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2) Facilitators must make every effort to notify the victim prior to making a report to authorities and must document these efforts. All reports of further violence must be documented in a manner that protects the confidentiality of victims and reporters.

3) PAIPs must immediately report a participant's threats to do harm or kill to the monitoring agency, e.g., probation officer, district attorney or court. The victim must also be notified of any threat of violence the participant makes in the course of therapy.

n) Victim Contact

1) PAIPs that choose to make victim contact must ensure the contacts are to determine if the victim is safe, to discuss safety issues and orders of protection, to get the victim's assessment of the participant's past and present abusive behavior, and to link the victim to a domestic violence victim services program, if the victim desires.

2) If the victim is the participant's current partner, or an ex-partner with whom the participant has an ongoing relationship, attempts to contact a victim must be a high priority.

3) PAIPs that choose to make victim contact must inform victims about the nature of the PAIP, participant's attendance at the PAIP, any threats made by participants, and participant's progress or lack of progress.

o) Referrals

1) PAIPs must develop procedures for accepting and rejecting court referrals. Those procedures must be developed in conjunction with the court system and must include reasons for rejection of referrals and recommendations for alternative referrals.

2) PAIPs must establish policies and procedures for reporting instances of noncompliance with program rules and violations of orders of protection to the court system.

3) PAIPs must establish policies and procedures for reporting to referral sources of those participants who are referred by entities other than the court system.

p) Fee Structure

1) PAIPs must charge participants fees for services except when charging of fees is prohibited or when PAIPs determine participants are unable to pay.

2) PAIPs must establish a fee scale to cover the cost of the program. Fees must be based on either a sliding scale or alternative system that would accommodate inability to pay, enabling participants to afford services. PAIPs may allow participants to perform work or community service in lieu of full payment.

3) PAIPs must not refuse to accept participants with an inability to pay until such participants equal a minimum of 10 percent of the total clientele.

q) Staff Competency

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- 1) PAIP staff must be competent in general interpersonal skills required to relate to battering and abusive participants, general knowledge of human behavior and specific knowledge about domestic violence, and they must have attitudes and behavior consistent with these guidelines.
 - 2) All PAIP direct service staff and supervisors must have completed the 40 hours of training consistent with the requirements of the Illinois Domestic Violence Act [750 ILCS 60] and an additional 20 hours of training in abuser services.
 - r) Supervision
 - PAIPs must have written personnel policies and procedures. Included in these procedures must be provisions for supervision of and peer consultation between group facilitators.
 - s) Maintenance of Data
 - 1) PAIPs must collect and maintain the following data in participants's files, unless otherwise noted:
 - A) age;
 - B) race;
 - C) address;
 - D) telephone number;
 - E) marital status;
 - F) children;
 - G) educational level;
 - H) employment;
 - I) income;
 - J) health history (including mental health, if appropriate release is obtained);
 - K) source of referral (if refused, reason for refusal);
 - L) charge type;
 - M) description of offense;
 - N) date of intake;
 - O) assessment;
 - P) signed release of information;
 - Q) signed contract;
 - R) date of program start;
 - S) attendance records;
 - T) case notes;
 - U) date of completion;
 - V) referrals to other agencies and purpose (with release of information);
 - W) record of payment;
 - X) Department of Children and Family Services contacts (if applicable).
 - 2) PAIPs do not always receive the information listed below. However, if any of this information is available, it must be maintained in the participant files:
 - A) arrest records;
 - B) police reports;
- 3) PAIPs must aggregate and keep the following data in a statistical database:
 - A) number of referrals;
 - B) number of intakes completed;
 - C) number of participants refused entry;
 - D) number of participants referred to other resources;
 - E) number of participants re-arrested during the program, by category of offense;
 - F) number of participants mandatorily required to be in program;
 - G) number of participants in the program voluntarily;
 - H) number of participants in the program for the second time or the second offense; and
 - I) number of participants completing the program.

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- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code

- 2) Code Citation: 77 Ill. Adm. Code 350

- 3) Section Numbers:
 350.683 Proposed Action:
 Amendment
 350.3760 Amendment
 350.3850 Amendment

- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

- 5) A Complete Description of the Subjects and Issues Involved: Part 350 regulates the licensure of intermediate care facilities for the developmentally disabled.

Section 350.683 is being amended to implement Public Act 91-598, which amended the Nursing Home Care Act to allow the Department to accept comparable training for employees of the Department of Human Services as equivalent training for habilitation aides.

Section 350.3760 is being amended to implement Public Act 91-630. This legislation amended the Mental Health and Developmental Disabilities Administrative Act to authorize nurses to delegate direct care staff to administer medication in several health care settings, including all intermediate care facilities for the developmentally disabled with 16 beds or fewer that are licensed by the Department of Public Health. The Department of Human Services was required to develop a training program for authorized direct care staff to administer oral and topical medications under the supervision and monitoring of a registered professional nurse. The DHS training requirements are being referenced in Section 350.3760. Requirements for the administration of over-the-counter medications on an "as needed" basis are also included.

Section 350.3850 is being amended to change "15 Beds or Less" to "16 or fewer beds" to correctly reflect this licensure category.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

- 6) Will this Rulemaking Replace an Emergency Amendment Currently in Effect?
 No

- 7) Does this Rulemaking Contain an Automatic Repeal Date? No

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- 8) Does this Rulemaking Contain Any Incorporations By Reference? No

- 9) Are there any other Proposed Amendments Pending on this Part? Yes

| <u>Section Numbers</u> | <u>Proposed Action</u> | <u>Ill. Reg. Citation</u> |
|------------------------|------------------------|---------------------------|
| 350.160 | Amendment | 24 Ill. Reg. 4816 |
| 350.290 | Repeal | 24 Ill. Reg. 4816 |
| 350.681 | Amendment | 24 Ill. Reg. 4816 |
| 350.682 | New Section | 24 Ill. Reg. 4816 |
| 350.820 | Amendment | 24 Ill. Reg. 4816 |
| 350.1050 | Amendment | 24 Ill. Reg. 4816 |
| 350.1055 | New Section | 24 Ill. Reg. 4816 |
| 350.1223 | Amendment | 24 Ill. Reg. 4816 |

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Paul Thompson
 Division of Legal Services
 Illinois Department of Public Health
 535 West Jefferson St., 5th Floor
 Springfield, Illinois 62761
 217/782-2043
 e-mail: rules@dph.state.il.us

These amendments may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Paul Thompson at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

- 12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: small intermediate care facilities for developmentally disabled persons

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Record keeping procedures are set forth in 59 Ill. Adm. Code 116.

C) Types of Professional Skills Necessary for Compliance: Nursing;

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training in medication administration.

13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

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| 350.120 | Application for License |
| 350.130 | Licensee |
| 350.140 | Issuance of an Initial License for a New Facility |
| 350.150 | Issuance of an Initial License Due to a Change of Ownership |
| 350.160 | Issuance of a Renewal License |
| 350.165 | Criteria for Adverse License Actions |
| 350.170 | Denial of Initial License |
| 350.175 | Denial of Renewal of License |
| 350.180 | Revocation of License |
| 350.190 | Experimental Program Conflicting With Requirements |
| 350.200 | Inspections, Surveys, Evaluations and Consultation |
| 350.210 | Filing an Annual Attested Financial Statement |
| 350.220 | Information to Be Made Available to the Public By the Department |
| 350.230 | Information to Be Made Available to the Public By the Licensee |
| 350.240 | Municipal Licensing |
| 350.250 | Ownership Disclosure |
| 350.260 | Issuance of Conditional Licenses |
| 350.270 | Monitor and Receivership |
| 350.271 | Presentation of Findings |
| 350.272 | Determination to Issue a Notice of Violation or Administrative Warning |
| 350.274 | Determination of the Level of a Violation |
| 350.276 | Notice of Violation |
| 350.277 | Administrative Warning |
| 350.278 | Plans of Correction |
| 350.280 | Reports of Correction |
| 350.282 | Conditions for Assessment of Penalties |
| 350.284 | Calculation of Penalties |
| 350.286 | Determination to Assess Penalties |
| 350.288 | Reduction or Waiver of Penalties |
| 350.290 | Quarterly List of Violators (Repealed) |
| 350.300 | Alcoholism Treatment Programs In Long-Term Care Facilities |
| 350.310 | Department May Survey Facilities Formerly Licensed |
| 350.315 | Supported Congregate Living Arrangement Demonstration |
| 350.320 | Waivers |
| 350.330 | Definitions |
| 350.340 | Incorporated and Referenced Materials |

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SUBPART B: ADMINISTRATION

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| Section 350.510 | Administrator |
| SUBPART C: POLICIES | |
| Section 350.610 | Management Policies |
| 350.620 | Resident Care Policies |
| 350.625 | Determination of Need Screening |
| 350.630 | Admission and Discharge Policies |
| 350.640 | Contract Between Resident and Facility |
| 350.650 | Residents' Advisory Council |
| 350.660 | General Policies |
| 350.670 | Personnel Policies |
| 350.675 | Initial Health Evaluation for Employees |
| 350.680 | Developmental Disabilities Aides |
| 350.681 | Health Care Worker Background Check |
| 350.682 | Resident Attendants |
| 350.683 | Registry of Developmental Disabilities Aides |
| 350.685 | Student Interns |
| 350.690 | Disaster Preparedness |
| 350.700 | Serious Incidents and Accidents |

SUBPART D: PERSONNEL

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| Section 350.810 | Personnel |
| 350.820 | Consultation Services |
| 350.830 | Personnel Policies |
| SUBPART E: RESIDENT LIVING SERVICES | |

| | |
|---------------------|---|
| Section 350.1010 | Service Programs |
| 350.1020 | Psychological Services |
| 350.1030 | Social Services |
| 350.1040 | Speech Pathology and Audiology Services |
| 350.1050 | Recreational and Activities Services |
| 350.1055 | Volunteer Program |
| 350.1060 | Training and Habilitation Services |
| 350.1070 | Training and Habilitation Staff |
| 350.1080 | Restraints |
| 350.1082 | Nonemergency Use of Physical Restraints |
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SUBPART F: HEALTH SERVICES

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| Section 350.1210 | Health Services |
| 350.1220 | Physician Services |
| 350.1223 | Communicable Disease Policies |
| 350.1225 | Tuberculin Skin Test Procedures |
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SUBPART G: MEDICATIONS

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| Section 350.1410 | Medication Policies and Procedures |
| 350.1420 | Conformance with Physician's Orders |
| 350.1430 | Administration of Medication |
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SUBPART H: RESIDENT AND FACILITY RECORDS

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| Section 350.1610 | Resident Record Requirements |
| 350.1620 | Content of Medical Records |
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| 350.1640 | Records Pertaining to Residents' Property |
| 350.1650 | Retention and Transfer of Resident Records |
| 350.1660 | Other Resident Record Requirements |
| 350.1670 | Staff Responsibility for Medical Records |
| 350.1680 | Retention of Facility Records |
| 350.1690 | Other Facility Record Requirements |

SUBPART I: FOOD SERVICE

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|---------------------|--|
| Section 350.1810 | Director of Food Services |
| 350.1820 | Dietary Staff in Addition to Director of Food Services |
| 350.1830 | Hygiene of Dietary Staff |
| 350.1840 | Diet Orders |
| 350.1850 | Meal Planning |
| 350.1860 | Therapeutic Diets (Repealed) |
| 350.1870 | Scheduling Meals |
| 350.1880 | Menus and Food Records |
| 350.1890 | Food Preparation and Service |
| 350.1900 | Food Handling Sanitation |
| 350.1910 | Kitchen Equipment, Utensils, and Supplies |

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SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section

350.2010 Maintenance
350.2020 Housekeeping
350.2030 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

350.2210 Furnishings
350.2220 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section

350.2410 Codes
350.2420 Water Supply
350.2430 Sewage Disposal
350.2440 Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section

350.2610 Applicability of These Standards
350.2620 Codes and Standards
350.2630 Preparation of Drawings and Specifications
350.2640 Site
350.2650 Administration and Public Areas
350.2660 Nursing Unit
350.2670 Dining, Living, Activities Rooms
350.2680 Therapy and Personal Care
350.2690 Service Departments
350.2700 General Building Requirements
350.2710 Structural
350.2720 Mechanical Systems
350.2730 Plumbing Systems
350.2740 Electrical Systems

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section

350.2910 Applicability
350.2920 Codes and Standards
350.2930 Preparation of Drawings and Specifications
350.2940 Site

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350.2950 Administration and Public Areas
350.2960 Nursing Unit
350.2970 Living, Dining, Activities Rooms
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350.2990 Service Departments
350.3000 General Building Requirements
350.3010 Structural
350.3020 Mechanical Systems
350.3030 Plumbing Systems
350.3040 Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section

350.3210 General
350.3220 Medical and Personal Care Program
350.3230 Restraints (Repealed)
350.3240 Abuse and Neglect
350.3250 Communication and Visitation
350.3260 Resident's Funds
350.3270 Residents' Advisory Council
350.3280 Contract With Facility
350.3290 Private Right of Action
350.3300 Transfer or Discharge
350.3310 Complaint Procedures
350.3320 Confidentiality
350.3330 Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

Section

350.3710 Applicability of Other Provisions of this Part
350.3720 Administration
350.3730 Admission and Discharge Policies
350.3740 Personnel
350.3750 Consultation Services and Nursing Services
350.3760 Medication Policies
350.3770 Food Services
350.3780 Codes and Standards
350.3790 Administration and Public Areas
350.3800 Bedrooms
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350.3820 Bath and Toilet Rooms
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| | |
|----------|--|
| 350.3870 | Laundry Room |
| 350.3880 | General Building Requirements |
| 350.3890 | Corridors |
| 350.3900 | Special Care Room |
| 350.3910 | Exit Facilities and Subdivision of Floor Areas |
| 350.3920 | Stairways, Vertical Openings and Doorways |
| 350.3930 | Hazardous Areas and Combustible Storage |
| 350.3940 | Mechanical Systems |
| 350.3950 | Heating, Cooling, and Ventilating Systems |
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| 350.3970 | Electrical Systems |
| 350.3980 | Fire Alarm and Detection System |
| 350.3990 | Emergency Electrical System |
| 350.4000 | Fire Protection |
| 350.4010 | Construction Types |
| 350.4020 | Equivalencies |
| 350.4030 | New Construction Requirements |

SUBPART Q: DAY CARE PROGRAMS

| | |
|------------|--|
| Section | Day Care in Long-Term Care Facilities |
| 350.4210 | |
| APPENDIX A | Classification of Distinct Part of a Facility for Different Levels of Service (Repealed) |
| APPENDIX B | Federal Requirements Regarding Residents' Rights (Repealed) |
| APPENDIX C | Seismic Zone Map |
| APPENDIX D | Forms for Day Care in Long-Term Care Facilities |
| APPENDIX E | Guidelines for the Use of Various Drugs |
| TABLE A | Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled |
| TABLE B | Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled |
| TABLE C | Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled |
| TABLE D | Food Service Sanitation Rules and Regulations, 77 Ill. Adm. Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less |
| TABLE E | Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less |
| TABLE F | Heat Index Table/Apparent Temperature |

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1,

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1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000; amended at 25 Ill. Reg. _____, effective _____.

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SUBPART C: POLICIES

Section 350.683 Registry of Developmental Disabilities Aides

- a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Programs Program Code (77 Ill. Adm. Code 395) and has met background check information required in Section 350.681 of this Part, and when there are no findings of abuse, neglect or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act.
- b) An individual will be placed on the Nurse Aide Registry if he/she has met background check information required in Section 350.681 of this Part and submits documentation supporting one of the following equivalencies:
 - 1) Documentation of current registration from another state as a developmental disabilities aide.
 - 2) Documentation of successful completion of a developmental disabilities aide training course approved by another state as evidenced by a diploma, certification, or other written verification from the school. The documentation must demonstrate that the course is equivalent to, or exceeds, the requirements for developmental disability aides in the Department's rules governing long-term care assistant and aide training programs (77 Ill. Adm. Code 395).
 - 3) Documentation of successful completion of a Mental Health Technician Training Program conducted by the Department of Human Services Mental-Health-and-Developmental-Disabilities.
 - 4) Documentation of completion of the Direct Support Core Training Program as an employee of the Department of Human Services.
- c) An individual shall notify the Nurse Aide Registry of any change of address within 30 days and of any name change within 30 days and shall submit proof of any name change to the Department. (Section 3-206.01 of the Act)

(Source: Amended at 25 Ill. Reg. _____, effective _____)

**SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES
FOR THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS**

Section 350.3760 Medication Policies

- a) In order for each resident to attain the highest possible level of independent functioning, all residents shall be permitted to participate in their total health care program. This program shall

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include, but not be limited to, resident training in preventive health and self-medication procedures provided by a licensed nurse. Every facility shall adopt written preventative health and self-medication policies and procedures, which are consistent with the purpose of the Act and this Part and which shall be followed in the operation of the facility, for assisting residents in obtaining preventative health and self-medication skills. These policies and procedures shall be developed with consultation from an Illinois registered professional nurse and a registered pharmacist. These policies and procedures shall be part of the written program of care and services. (See Section 350.6207.)

- b) No facility shall operate a pharmacy.
- c) A facility may stock only drugs which are regularly available without prescription at a commercial pharmacy, such as: noncontrolled cough syrups, laxatives, and analgesics. These shall be given to a resident only upon the written order of the physician, dentist, or podiatrist; shall be administered from the original containers; and shall be recorded in the resident's clinical record.
- d) No emergency medication kit shall be maintained in this type of facility.
- e) Nursing stations are not required in this type of facility.
- f) Current medical references are not required in this type of facility.
- g) All medications on individual prescription or from the physician's personal supply shall be properly labeled as set forth in subsection (k) Section-350-3760(q).
 - 1) All other medications shall be authorized by a physician for individual resident use, and shall be clearly identified with the resident's name.
 - 2) Attending physicians shall review the medication regimen of each resident at least every six months. Documentation of this review shall be entered in the resident's record.
- h) All medications used by residents shall be properly recorded by facility staff at time of use. (See Section 350.1620(g).) A medication record need not be kept for those residents for whom the attending physician has given permission to keep their medication in their room and to be fully responsible for taking the medications in the correct dosage and at the proper times themselves.
- i) Bottled oxygen may not be administered in a facility, except in an emergency. Not more than one 12 pound portable size tank of oxygen for such an emergency use shall be kept in the facility. However, use of an oxygen concentrator is permitted when prescribed by a physician for a resident. The facility must be in compliance with directions for use of such equipment as established by the manufacturer.
- j) All discontinued legend or controlled drugs, all medications having an expiration date that has passed, and all medications of residents who have expired, shall be disposed of in accordance with the rules and regulations of the Federal Drug Enforcement Administration by the prescribing physician or the consultant pharmacist. A notation of

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their disposition shall be made in the resident's record.

- k) All medications taken by residents in this type of facility must be administered by a nurse or physician licensed to practice in Illinois unless the medication is self-administered by the resident. Facility staff shall not administer medication to residents unless the staff person is a properly licensed nurse or physician.

1) All residents shall be evaluated by the facility's interdisciplinary team to determine their self-medication capability. Each resident determined to have the capability to learn to administer his/her own medications shall have written training and habilitation objectives developed by the interdisciplinary team based upon this evaluation and stated in specific behavioral terms that permit the progress of the resident to be assessed and recorded.

2) The facility shall provide, either directly or through arrangements with the consultant nurse, training and supervision necessary for identified residents to gain independence in self-administering their own medications as approved in writing by the resident's personal physician, and documented in the resident's individual plan.

3) Facility staff may assist a resident in the self-administration of medications by taking the medication from the locked area where it is stored and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident. Facility staff may also assist physically impaired residents, such as those who have arthritis, cerebral palsy, or Parkinson's disease, in the removal of the medication from the container and in assisting the resident in consuming or applying the medication when requested to do so by the resident. (For example, a staff member may place a dose of medicine in a container and place the container to the mouth of a resident who would not be able to do so without spilling it.)

4) To be considered "capable of self-administering their own medications," residents must, at a minimum, be able to identify their medication by size, shape, or color and know when they should take it, and the amount to be taken each time.

l) Medication may be administered by non-licensed direct care staff who have been trained and authorized in accordance with 59 Ill. Adm. Code 116 (Administration of Medication in Community Settings). In addition to the requirements set forth in 59 Ill. Adm. Code 116.50, medications shall be given "as needed" or "PRN" only as follows:

- 1) Only over-the-counter medications such as those listed in 59 Ill. Adm. Code 116.50(e), with the exception of laxatives, shall be administered PRN;
- 2) Facilities may develop and follow policies limiting the administration of PRN medication;
- 3) Each client's medical record shall state what medications may be

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administered PRN and shall include documentation of administration of PRN medication; and

4) A licensed professional shall be notified within 24 hours after the administration of PRN medication by unlicensed direct care personnel.

m) All medications shall be stored under lock and key at all times. The storage area shall be well lighted and of sufficient size to permit storage without crowding. This area may be a metal container, drawer, cabinet, closet, or room. A separate medication room is not required. The key to the medicine area shall be the responsibility of, and in the possession of, the staff persons responsible for overseeing the self-administration of medications by residents.

1) The medicine area shall not be used for any other purpose. However, for those persons whom the attending physician has given written permission to handle their own medication, medications may be stored in a locked metal container, drawer, or cabinet in the resident's room along with other possessions of that resident.

2) Residents for whom the attending physician has given permission to be totally responsible for their own medication shall maintain possession of the key, or combination of the lock, to their own medication storage area. A duplicate key or a copy of the combination shall be kept by the facility in its safe, or some other secure place, for emergency use, such as if residents lose or misplace their key, or forget the combination.

on) Medications for external use shall be kept in a separate location in the medicine area or in a separate locked area.

po) All poisonous substances and other hazardous compounds shall be kept in a separate locked area away from medications.

gp) Biologicals or medications requiring refrigeration shall be kept in a separate, securely fastened locked container in a refrigerator, or in a locked refrigerator.

rq) The label of each individual medication container filled by a pharmacist shall clearly indicate the resident's full name, physician's name, prescription number, name and strength of drug, amount of drug, date of issue, expiration date of all time-dated drugs; name, address, and telephone number of pharmacy issuing the drug; and the initials of the pharmacist filling the prescription. If the individual medication container is filled by a physician from the physician's own supply, the label shall clearly indicate all the preceding information except that pertaining to the identification of the pharmacy, pharmacist, and prescription number.

st) Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or dispensing physician for relabeling or disposal. Containers having no labels shall be destroyed in accordance with Federal and State laws.

ts) The medications of each resident shall be kept and stored in their

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originally received containers. Medications shall not be transferred between containers.
 Attorney General's Opinion File No. S-1033, dated January 9, 1976, concluded that the administration of medication to residents of licensed long-term care facilities is a nursing procedure, as defined in the Illinois Nursing Act and, as such, cannot be performed by persons who are not licensed as either Registered Professional Nurses or Licensed Practical Nurses. The opinion concluded by stating that "nursing aides, orderlies, attendants, and other auxiliary workers who are employed in nursing homes are not permitted to administer medications to patients in nursing homes."

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 350.3850 Therapy and Personal Care

- a) Physical and occupational therapy facilities are not required in an ICF/DD of 16 or fewer beds ~~15-Beds-or-less~~.
- b) A separate room for hair care and grooming needs is not required in a ICF/DD of 16 or fewer beds ~~15-Beds-or-less~~.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Rules of Practice and Procedure in Administrative Hearings Held Pursuant to Sections 2-110(d) and 410 of the Nursing Home Care Reform Act of 1979.

- 2) Code Citation: 77 Ill. Adm. Code 430

- 3) Section Numbers:

Proposed Action:

430.10 Amendment
 430.20 Repeal
 430.30 Repeal
 430.40 Repeal
 430.50 Repeal
 430.60 Repeal
 430.70 Repeal
 430.80 Repeal
 430.90 Repeal
 430.100 Repeal
 430.110 Repeal
 430.120 Repeal
 430.130 Repeal
 430.140 Repeal
 430.150 Repeal
 430.160 Repeal
 430.170 Repeal
 430.180 Repeal

- 4) Statutory Authority: Implementing and authorized by Sections 2-110(d), 3-410, and 3-801 of the Nursing Home Care Act [210 ILCS 45/2-110(d), 3-410, and 3-801].

- 5) A Complete Description of the Subjects and Issues Involved: The rulemaking provides a technical update of the hearing rules in this part by reference to the current hearing rules compiled in Part 100 of Title 77.

- 6) Will this proposed amendment replace an emergency amendment in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a State mandate.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the

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day this notice of rulemaking appears in the *Illinois Register*. Small businesses submitting comments should identify themselves as this type of entity in their comments. Please send written comments on the proposed rulemaking within 45 days after the publication of this issue of the *Illinois Register* to the attention of:

Paul Thompson, Staff Counsel
Illinois Department of Public Health
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities, and Not-for-Profit Corporations affected: None

B) Reporting, Bookkeeping, or Other Procedures required for compliance:
None

C) Types of Professional Skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the decision to propose this rulemaking had not been made when the Regulatory Agenda was finalized.

The full text of the Proposed Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 430

REFERENCE FOR RULES OF PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

UNDER HELD-PURSUANT-TO SECTIONS 2-110(d) AND 410 OF THE NURSING HOME CARE REFORM ACT OF 1979

| Section | |
|---------|--|
| 430.10 | Applicability |
| 430.20 | Definitions (Repealed) |
| 430.30 | Persons Who May Request a Hearing (Repealed) |
| 430.40 | Parties to Hearings (Repealed) |
| 430.50 | Appearance -- Right to Counsel (Repealed) |
| 430.60 | Intervention (Repealed) |
| 430.70 | Request for Hearing, Notice of Hearing, Answers and Motions (Repealed) |
| 430.80 | Time and Place of the Hearing (Repealed) |
| 430.90 | Service (Repealed) |
| 430.100 | Discovery and Depositions (Repealed) |
| 430.110 | Pre-Hearing Conference (Repealed) |
| 430.120 | Conduct of Hearing (Repealed) |
| 430.130 | Burden of Proof (Repealed) |
| 430.140 | Subpoenas (Repealed) |
| 430.150 | Hearing Officer's Report and Final Decision (Repealed) |
| 430.160 | Proposal for Decision (Repealed) |
| 430.170 | Record of Proceedings (Repealed) |
| 430.180 | Miscellaneous (Repealed) |

AUTHORITY: Implementing Sections 2-110(d), 3-410, and 3-801 of the Nursing Home Care Act [210 ILCS 45/2-110(d), 3-410, and 3-801].

SOURCE: Adopted and codified at 6 Ill. Reg. 14523, effective November 10, 1982; amended at 25 Ill. Reg. _____, effective _____.

Section 430.10 Applicability

Part 100 of this Title 77, Rules of Practice and Procedure in Administrative Hearings [77 Ill. Adm. Code 100], contains the provisions ~~these rules are~~ applicable to administrative hearings before the Illinois Department of Public Health ~~which are~~ authorized by:

- a) Section 2-110(d) of the Nursing Home Care Reform Act [210 ILCS 45/2-110(d)] that ~~of 1979 (Ill. Rev. Stat. 1981, ch. 112, par. 4152-110) which~~ gives a person refused access to a long-term care facility the right to a hearing, ~~and~~
- b) Section 3-410 of the Nursing Home Care Act [210 ILCS 45/3-410] that

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referenced--in-paragraph-(a)-of-this-Section-which gives the resident of a long-term care facility the right to appeal the facility's decision to involuntarily transfer/discharge the resident.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 430.20 Definitions (Repealed)

For purposes of this Part:

"Agreed Settlement" shall mean an agreement made by the parties resolving the reasons for the hearing.

"APA" shall mean the Illinois Administrative Procedure Act, Ill. Rev. Stat., 1991, ch. 127, par. 1-101, et seq.

"Consent Order" shall mean an order entered by the Director by stipulation of the parties.

"Default" shall mean a judgment rendered against a party as a result of that party's or intervenors on the side of that party's failure to appear at the hearing without valid reason.

"Denial of Access Hearing" shall mean a hearing conducted before the Department pursuant to Section 2-110(d) of the Nursing Home Act.

"Department" shall mean the Illinois Department of Public Health.

"Director" shall mean the Director of Public Health or his designee.

"Facility" shall have the meaning ascribed to it in Section 1-113 of the Nursing Home Act.

"Good Cause" shall mean a valid reason, not an excuse.

"Hearing Officer" shall mean a duly qualified employee of the Department designated in writing by the Director to conduct a hearing to review a decision.

"Involuntary Transfer/Discharge Hearing" shall mean a hearing conducted before the Department pursuant to Section 3-410 of the Nursing Home Act.

"Nursing Home Act" shall mean the Nursing Home Care Reform Act of 1979, as amended, Ill. Rev. Stat., 1981, ch. 111-1/27, par. 4151-101, et seq.

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"Person" shall mean any individual, partnership, corporation, association, governmental subdivision, public or private organization of any character or governmental agency.

"Reasonable and timely" shall mean a time which is fair and which does not cause delay or prejudice the rights of another to expeditious justice.

"Resident" shall have the meaning ascribed to it in Section 1-122 of the Nursing Home Act.

"Stipulation" shall mean an agreement made by the parties regarding any matter concerning the proceedings.

"Substantial justice" shall mean justice based on the substance of the law and the facts rather than on technical procedure.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.30 Persons Who May Request a Hearing (Repealed)

a) A person who is denied access to a facility may request a hearing on the denial as provided for in Section 2-110(d) of the Nursing Home Act.

b) A resident subject to involuntary transfer or discharge from a facility, the resident's guardian or if the resident is a minor, his parents shall have the right to request a hearing as provided for in Section 3-410 of the Nursing Home Act.

c) Other than as provided for in paragraphs (a) and (b) of this section, no other person shall have a right to request a hearing under Sections 2-110(d) or 3-410 of the Nursing Home Act. This provision does not prevent an attorney representing a person who has a right to request a hearing from filing the request on behalf of his client.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.40 Parties to Hearings (Repealed)

For purposes of this part:

a) The parties to administrative hearings before the Department are Complainants, Respondents and intervenors.

b) The Complainant:

- 1) in an involuntary transfer/discharge hearing is the resident who is to be transferred/discharged, and
- 2) in a denial of access hearing is the person who is refused access to a facility and requests a hearing on the denial of access.

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- c) The Respondent is the person licensed under the Nursing Home Act to operate the facility whose decision to involuntarily transfer/discharge a resident or deny access is being appealed;
- d) Intervenor is those persons who in accordance with Section 430.70 of this Part are permitted to intervene and participate at a hearing.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.50 Appearance -- Right to Counsel (Repealed)

- a) In all hearings conducted before the Department:
- 1) Any party to a proceeding may appear and be heard by an attorney authorized to practice in the State of Illinois;
 - 2) A natural person who is a party may appear and be heard on his or her own behalf; if a resident has a guardian, the resident may be represented by his/her guardian; if a resident is a minor and does not have a guardian, the resident may be represented by his/her parents;
 - 3) A corporation or association shall appear and be heard only by an attorney authorized to practice in the State of Illinois; A shareholder, corporate officer, employee or member of the board of directors may not appear or represent a corporation or association unless the individual is authorized to practice law in the State of Illinois;
 - 4) A partnership may be represented by a general partner;
 - 5) Only persons admitted by the Supreme Court of this State to practice as attorneys and counselors at law shall represent others in proceedings before the Department;
 - 6) All attorneys appearing in proceedings before the Department shall conform to the standards of ethical conduct required of attorneys before the courts of Illinois; if any attorney does not conform to such standards, the Department may decline to permit such attorney to appear in any proceedings. Non-attorneys appearing in proceedings before the Department shall be courteous, dignified, and shall maintain the decorum of the tribunal;
- b) Each party to a proceeding who appears before the Department either in person or by counsel shall inform the Department in writing or orally at the hearing of the address at which any notice or other document may be served upon him or her in such proceeding. All further service may be made by regular mail;
- c) An attorney may withdraw his appearance and/or representation only upon motion and appropriate ruling by the Hearing Officer. However, attorneys may be substituted without motion upon notice to all parties and the Hearing Officer if the substitution will not delay the proceedings and a statement to that effect is contained in the notice.

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(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.60 Intervention (Repealed)

- a) The following persons have a right to intervene in a proceeding:
- 1) the administrator of the facility if the proceeding is a denial of access hearing and the administrator refused access to the complainant under Section 2-110(d) of the Nursing Home Act; and
 - 2) any person responsible for the payment of a resident's stay in a facility if the proceeding is an involuntary transfer/discharge of the resident and the basis for transfer/discharge is nonpayment;
- b) Any person who does not have a right to automatically intervene under paragraph (a) of this Section may in the discretion of the Hearing Officer be permitted to intervene in a proceeding:
- 1) when the person can show an interest in the proceeding which may not be adequately represented by the parties to the proceedings; or
 - 2) when the person may be affected by the Department's final administrative decision; or
 - 3) when the person is another agency of the State of Illinois which has an interest in the matter which is before the Department;
- c) In order to intervene each potential intervenor shall give:
- 1) his name, address and phone number;
 - 2) if the person requesting to intervene is represented by an attorney, the name, address and phone number of the attorney;
 - 3) the reasons why the individual desires to intervene which shall show that the individual:
- A) has a right to intervene under subparagraph (a) of this Section; or
 - B) has an interest in the proceeding which may not be adequately represented by the parties; or
 - C) may be affected by the Department's final administrative decision; or
 - D) is another agency of the State of Illinois which has an interest in the matter which is before the Department.
- d) Intervention may be allowed at any time prior to the swearing in of the first witness.
- e) If a person appears at the hearing wishing to represent a party, but may not represent that party under Section 430.50, then the hearing officer shall treat that appearance as a request to intervene pursuant to this Section.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.70 Request for Hearing, Notice of Hearing, Answers and Motions

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(Repealed)

- a) The procedure for requesting a hearing under this part is as follows:
- 1) A request for a denial of access hearing shall be made in writing to the Department and shall contain the following information:
 - A) the name and address of the person making the request
 - B) a statement that it is a request for a hearing on a denial of access
 - C) the name and address of the facility which allegedly denied access; and
 - D) a short and concise statement of the facts involved in the alleged denial of access including dates, persons involved and the alleged reason for denial.
 - 2) A request for an involuntary transfer/discharge shall be made on the hearing request form prescribed by the Department which is to accompany the notice required by Sections 3-402 and 3-403 of the Nursing Home Act. Failure to use the prescribed form shall not affect the making of a written request for a hearing. If the prescribed form is not used a written request to the Department for the hearing should include the name and address of the resident being transferred, the name and address of the facility, and a short statement of the reasons for appealing the decision.
 - b) Notice of Hearing. Within a period of twenty-four (24) hours after the Department officially receives a Request for Hearing, the person making the request for a hearing and the Administrator of the facility making the decision which is being reviewed shall be notified by telephone of a Notice of Hearing, which shall be followed by a written Notice of Hearing.
 - 1) The Notice of Hearing shall contain:
 - A) A statement of the nature of the Hearing;
 - B) A statement of the time and place of the Hearing, which shall be held not less than six (6) days after the notice is mailed or delivered;
 - C) A statement of the legal authority and jurisdiction under which the Hearing is to be held;
 - D) A reference to the particular sections of the statutes and rules involved;
 - E) A designation of the decision being reviewed; and
 - F) Any statement of the matters asserted by the complainant.
 - 2) The notice of Hearing shall be signed by the Director or duly appointed Hearing Officer.
 - 3) The notice may be served by delivering it personally to the parties or their representatives or by mailing it by certified mail to the parties' addresses.
 - c) Answers. Written answers to the matters asserted in a Notice of Hearing may but need not be filed by a Respondent. If an answer is filed it must be served on all parties at least 40 hours before the

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(Repealed)

- date of hearing:
- d) Motions, unless made during a hearing or the prehearing conference, shall be made in writing, shall set forth the relief or order sought, and shall be ruled upon on the day of such hearing, or prior to such hearing after notice to all parties and opportunity to be heard on such motion. The requirement of writing is fulfilled if the motion is stated in a written Notice of Motion. Motions based on a matter which does not appear in the record shall be supported by affidavit.
 - e) Motions for a Continuance. Motions for a continuance shall only be granted for good cause shown. Except in cases of an emergency or "Act of God," a motion for a continuance shall be made at least four (4) days before the hearing:
 - 1) In an involuntary transfer/discharge hearing, a continuance will be granted only if:
 - A) the hearing can be rescheduled to within the time frames set forth in Section 430-80(a) of this part; or
 - B) the day selected for the hearing conflicts with the schedule of an attorney representing one of the parties; or
 - C) all parties agree to the continuance; or
 - D) there is a bonafide emergency or "Act of God."
 - 2) Emergencies. If there is a bona fide unforeseen emergency, motions for a continuance may be made by telephone rather than in writing. Motions by telephone shall, whenever possible, be made through a conference call involving the Hearing Officer and all parties.
 - f) Responses. Any party to a hearing may respond to any motion or petition. Responses shall be in writing unless made at a prehearing conference or a hearing.
 - g) All motions shall be filed with the Hearing Officer with a copy being sent to all other parties.
 - h) All written documents provided for under this Section shall be liberally construed with a view toward doing substantial justice between the parties.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.80 Time and Place of the Hearing (Repealed)

- a) Time frames for holding hearings under this part are as follows:
 - 1) The Department shall schedule and hold involuntary transfer/discharge hearings not later than ten (10) days after a hearing request is filed.
 - 2) The Department shall schedule and commence a denial of access hearing within thirty (30) days of the receipt of a request for hearing.
 - 3) In the case of an emergency, as provided for in Section

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430.70(e)(2) of this part, the Hearing Officer may extend the above time frames:

- b) The location of hearings under this part shall be as follows:
 - 1) Involuntary discharge/transfer hearings shall be held at the resident's facility.
 - 2) Denial of access hearings shall be held at the location designated in the Notice of Hearing. The location of the hearing may be moved to another location only upon the agreement of all parties.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.90 Service (Repealed)

- a) The Notice of Hearing shall be served by delivering it personally to the parties or their attorneys or by mailing it by certified mail to the parties' addresses.
- b) Subpoenas issued by the Director or Hearing Officer (Ref.: Section 430.140 of this part) may be served as provided for in civil actions. All other papers or motions, unless otherwise provided for in this part, shall be made by delivering in person or by depositing in the United States Mail properly addressed with postage prepaid, one copy to each party to the proceeding. When any party or parties have appeared by attorney, service shall be made upon the attorney.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.100 Discovery and Depositions (Repealed)

- a) In an involuntary transfer/discharge hearing, discovery shall be in accordance with the following:
 - 1) Any party may take the testimony of any person or party by deposition upon oral examination for use as evidence in the hearing if:
 - A) there is reason to believe that the person to be deposed will be unavailable for testimony at the hearing; and
 - B) the person taking the deposition has notified all parties and arranged with them a time and place for taking the deposition; and
 - C) the deposition is taken prior to the scheduled date of the hearing.
- 2) The party at whose instance the deposition is taken shall pay the fees of the witness and the charges of the recorder or stenographer for attending. The party at whose request a deposition is transcribed shall pay the charges for transcription.

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- 3) Except as provided for in subparagraph (i) above, no other discovery shall be allowed in involuntary transfer/discharge hearings.
- b) In a denial of access hearing, discovery shall be in accordance with the following:
 - 1) After service of a Notice of Hearing, discovery may be obtained through any of the following methods: depositions upon oral examination, written interrogatories to parties, inspection of documents, property and real evidence. Duplication of discovery methods to obtain the same information shall be avoided. All discovery shall be in a reasonable and timely manner.
 - 2) Discovery shall not be taken after the hearing has begun.
 - 3) A party desiring to take the deposition of any person upon oral examination shall serve written notice a reasonable time in advance on all other parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, or, if unknown, information sufficient to identify him, and whether the deposition is for purposes of discovery or use in evidence. In the absence of specification as to whether the deposition is to be a discovery or an evidence deposition, the deposition is a discovery deposition only. The notice of deposition shall be accompanied by a copy of the subpoena served upon the person to be deposed. Parties shall appear or produce their employees upon Notice without subpoena.

4) The party at whose instance the deposition is taken shall pay the fees of the witness and the charges of the recorder or stenographer for attending. The party at whose request a deposition is transcribed shall pay the charges for transcription.

5) Depositions may be used for any purpose that they could be used in the Circuit Court of this State. In addition, when the offering party did not have reason to believe that the witness would be unavailable for testimony at the hearing, the discovery deposition may also be used as depositions are used in the federal courts of the United States under Rule 32 of the Federal Rules of Civil Procedure.

6) Interrogatories may be directed by any party to a proceeding to any other party. Interrogatories shall be served on all parties in a timely manner so as to allow the party they are directed to sufficient time to respond. Answers to interrogatories may be used in evidence to the same extent as a discovery deposition.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

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- a) In all involuntary transfer/discharge hearings the Hearing Officer shall schedule a pre-hearing conference. The pre-hearing conference shall be held immediately preceding the hearing.
- b) In any proceeding held pursuant to Section 2-110(d) of the Nursing Home Act, a pre-hearing conference to be held anytime prior to the hearing may be scheduled by the Hearing Officer
- i) at his/her discretion; or
- 2) upon a request for such conference by any party to the proceeding which is in compliance with paragraph (c) of this Section.
- c) A request for a pre-hearing conference must be made in writing and received by the Hearing Officer at least seven (7) days prior to the scheduled date of hearing. The requesting party shall serve all parties to the proceeding with a copy of the request.
- d) A pre-hearing conference shall be for the purpose of considering:
- i) the simplification of the issues;
- 2) amendments to the pleadings;
- 3) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- 4) the limitation of the number of expert witnesses; and
- 5) any other matters which may aid in the disposition of the hearing.
- e) After a pre-hearing conference the Hearing Officer shall make a report which recites any action taken by the Hearing Officer and any agreement made by the parties as to any of the matters considered and which specifies as the issues for hearing those not disposed of at the conference.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.120 Conduct of Hearing (Repealed)

- a) All hearings conducted in any proceeding subject to this part shall be open to the public.
- b) The Hearing Officer shall conduct hearings, administer oaths to witnesses, may compel by subpoena or subpoena duces tecum the attendance and testimony of witnesses and the production of books and papers, regulate the course of hearings, hold informal conferences for the settlement, simplification or definition of issues, dispose of procedural requests, motions and similar matters, continue the hearing from time to time when necessary, examine witnesses and rule upon the admissibility of evidence and amendments to pleadings.
- c) The Hearing Officer shall direct all parties to enter their appearance on the record.
- d) In the event of the inability of any party or the Department to procure the attendance of witnesses to give testimony or produce books and papers, any party or the Department may take the deposition of witnesses in accordance with the provisions of the laws of this State.

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- e) The Department, at its expense, shall record the testimony and preserve a record of all proceedings under these rules. The Department shall furnish a transcript of such record to any person interested in such hearing upon payment thereof of 70 cents per page for each original transcript and 25 cents per page for each certified copy thereof. However, the charge for any part of such transcript ordered and paid for previous to the writing of the original record shall be 25 cents per page.
- f) All testimony taken at a hearing shall be reduced to writing and all such testimony and other evidence introduced at the hearing shall be a part of the record of the hearing.
- g) The Director or Hearing Officer shall not be bound by common law or statutory rules of evidence, or by technical or formal rules of procedure, but shall conduct hearings in the manner best calculated to result in substantial justice.
- h) All admissible evidence shall be considered in accordance with its relative probative value in formulating the final decision of the Director and also in formulating the findings of fact and conclusions of law (if any) which support the decision. A copy of the whole or any part of an admissible book, record, paper or memorandum of the Department which is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy of such copy. When any material or relevant matter offered in evidence by any party is embraced in a book, paper or document containing other matter not material or relevant, the party offering the same shall plainly designate the matter so offered. If in the judgment of the Hearing Officer such material or irrelevant matter would unnecessarily encumber the record, such book, paper or document will not be received in evidence as a whole, but the material or relevant portions thereof, if otherwise admissible, may be read into the record or a true copy thereof supplied in the form of an exhibit. Objections to evidentiary offers may be made and shall be noted in the record.
- i) A party may conduct cross-examination required for a full and fair disclosure of the facts.
- j) Parties may by stipulation agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding. Disposition may be made of any hearing by stipulation, agreed settlement, consent, order or default.
- k) At any stage of the hearing or after all parties have completed the presentation of their evidence, the Hearing Officer may call upon any party or the technical staff of the Department of Public Health or other Departments of State government or State Universities for further material or relevant evidence upon any issue.
- i) Official notice may be taken of matters of which circuit courts of this State may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge. Parties shall be notified

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NOTICE OF PROPOSED AMENDMENTS

either--before--or--during--the--hearing--or--by--reference--in--preliminary reports--or--otherwise--or--the--material--noticed--including--any--staff memoranda--or--data--and--they--shall--be--afforded--an--opportunity--to contest--the--material--so--noticed--the--Department's--experience technical--competence--and--specialized--knowledge--may--be--utilized--in--the evaluation--of--the--evidence.

m) No exception need be taken to any ruling or action of the Department or of its Hearing Officer.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.130 Burden of Proof (Repealed)

- a) In a denial of access hearing
- 1) the Complainant shall have the burden of showing that there was a denial of access
 - 2) the Respondent shall then have the burden of proof as to the right of the facility to refuse access under Section 2-110(d) of the Nursing Home Act.
- b) In an involuntary transfer/discharge hearing the respondent has the burden of proof. The Respondent shall open and close in such hearings.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.140 Subpoenas (Repealed)

- a) Subpoenas requiring the attendance and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records or memoranda may be issued by the Director or the Hearing Officer upon his/her own motion or upon the written request of any party to the proceeding. The Director or the Hearing Officer may require the party requesting the issuance of subpoenas to demonstrate the relevancy of the request to the issues in the hearing. For good cause shown, the Director or the Hearing Officer may deny or modify the request for subpoenas.
- b) Subpoenas issued by the Director or the Hearing Officer upon the request of a party to the proceeding shall be delivered to the requesting party who shall be responsible for serving the subpoenas.
- c) All subpoenas issued by the Director or Hearing Officer may be served as provided for in civil actions. The fees of witnesses for attendance and travel shall be the same as the fees for witnesses before the circuit court and shall be paid by the party to such proceeding at whose request the subpoena is issued. If such subpoena is issued at the request of the Department or by a person proceeding in forma pauperis the witness fee shall be paid by the Department as an administrative expense.

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(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.150 Hearing Officer's Report and Final Decision (Repealed)

- a) At the conclusion of a hearing the Hearing Officer shall make a written report of the hearing with his findings of fact and conclusions of law and his recommendations, if any, to the Director which report shall be accompanied by a transcript of the record, all exhibits admitted into evidence, copies of all documents or evidence made a part of the record and any other material which is deemed to be a part of the record.
- b) If the Director has not presided at a hearing or has not read the record of the proceeding, the provisions of Section 430.170 of this part shall be complied with prior to the Director entering a final decision.
- c) The Director shall adopt a final decision in each case supported by concise findings of fact and appropriate conclusions of law. The decision and supporting findings of fact and conclusions of law shall be made a part of the official record of each hearing. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the finding.
- d) A copy of any decision or order of the Director shall be served personally or by certified mail upon all parties of record or their agents appointed to receive service.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.160 Proposal for Decision (Repealed)

- a) When the Director has not heard the contested case or read the record and his final decision would be adverse to any party other than the Department, a proposal for decision shall be served upon all parties to the proceeding.
- b) The proposal for decision shall be prepared by the Hearing Officer or one who has read the record. The proposal for decision shall:
- 1) indicate the proposed order;
 - 2) contain a statement of the reasons for the proposed decision;
 - 3) contain a statement of each issue of fact or law necessary to the proposed decision; and
 - 4) indicate the time in which the adversely affected parties have to file written exceptions and a brief.
- c) Any party adversely affected by the proposed decision shall have at least 30 days from the receipt of the proposal for decision in which to file written exceptions and a brief. Failure to file written exceptions and a brief in the time provided for in the proposal for

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- decision shall be deemed a waiver of the right to file exceptions and a brief.
- d) The proposal for decision shall be served on all the parties personally or by certified mail.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.170 Record of Proceedings (Repealed)

- a) A full and complete record shall be kept of all proceedings. The record shall consist of the following:
- 1) all pleadings (including all notices and responses thereto), motions and rulings;
 - 2) a transcript of the hearing and all evidence received;
 - 3) a statement of matters officially noticed;
 - 4) offers of proof, objections and rulings thereon;
 - 5) proposed findings and exceptions;
 - 6) any decision, opinion or report by the Hearing Officer;
 - 7) all staff memoranda or data submitted to the Hearing Officer or members of the agency in connection with their consideration of the case; and
 - 8) any communication prohibited by Section 15 of the APA but such communications shall not form the basis for any findings of fact.
- b) The record shall not contain (1) (2) (3) below unless a party requests that the document or documents be included in the record:
- 1) Subpoenas
 - 2) Requests for Subpoenas
 - 3) Cover Letters
 - 4) Notices of Piling
 - 5) Certificates of Mailing for regular mail
 - 6) Notices of Depositions
 - 7) Discovery Requests
- c) The Department shall be the official custodian of the records of administrative hearings held before the Department.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 430.180 Miscellaneous (Repealed)

- a) Ex parte Consultation. Except in the disposition of matters which they are authorized by law to entertain or dispose of on an ex parte basis, the Hearing Officer or Director shall not, after notice of hearing, communicate directly or indirectly in connection with any issue of facts with any person or party, or in connection with any other issue with any party, his or her representative or any person interested in the outcome of the proceeding, except upon notice and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- opportunity for all parties to participate. However, a Department employee may communicate with other employees of the Department, and the Hearing Officer or Director may have the aid and advice of one or more personal assistants.
- b) Computation of time. The time within which any act under this part is to be done shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or a holiday as defined or fixed by statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday, or holiday is also a Saturday, Sunday, or holiday, then such succeeding day shall also be excluded.
- c) Construction of rules. This part shall not be construed to abrogate, modify or limit any rights, privileges, or immunities granted or protected by the Constitution or laws of the United States or the Constitution or laws of the State of Illinois. In case of any conflict between this part and the APA or the Nursing Home Act, the terms of the latter shall control.
- d) Waiver. Compliance with any of these rules or with any other all provisions of the APA regarding contested cases may be waived by written stipulation of all parties.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Claiming Races
- 2) Code Citation: 11 Ill. Adm. Code 510
- 3) Section Number: Adopted Action:
510.250 Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of amendment: November 8, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 24 Ill. Reg. 11166 - 7/28/00
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? There were no agreements.
- 13) Will this amendment replace an emergency amendment currently in effect?
No
- 14) Are there any other proposed amendments pending on this Part? No
- 15) Summary and purpose of amendment: This rulemaking will exclude a claimed horse from being subjected to the mandatory 25% raise due to the fact that the racetracks racing secretary will handicap the horses accordingly in a starter handicap race.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 11-100
Chicago, Illinois 60601
(312) 814-5017

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

The full text of the adopted amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER 1: ILLINOIS RACING BOARD

SUBCHAPTER C: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 510

CLAIMING RACES

| Section | Definition |
|---------|--|
| 510.10 | Claiming Eligibility |
| 510.20 | Form and Deposit of Claim |
| 510.30 | Errors which Invalidate Claim |
| 510.40 | Refund of Voided Claim |
| 510.50 | Prohibited Action with Respect to Claim |
| 510.60 | Horses under Lien |
| 510.70 | Affidavit May be Required |
| 510.80 | Claimant's Responsibility |
| 510.90 | Claimed Horse's Certificate |
| 510.100 | Engagements of a Claimed Horse |
| 510.110 | Protests of a Claim |
| 510.120 | Title to a Claimed Horse |
| 510.130 | Distribution of the Purse |
| 510.140 | Delivery of a Claimed Horse |
| 510.150 | Trainer Responsibility for Post-Race Tests |
| 510.160 | Excusing Claimed Horse |
| 510.170 | Stable Eliminated by Fire or Other Hazard |
| 510.180 | Entering Claimed Horse (Repealed) |
| 510.190 | Determining Eligibility Dates |
| 510.195 | Claimed Horse Racing Elsewhere |
| 510.200 | Sale of a Claimed Horse |
| 510.210 | Illinois Rules Govern Claimed Horse |
| 510.220 | Extension of Regular Meeting (Repealed) |
| 510.230 | Claiming Authorization |
| 510.240 | Claiming Price |
| 510.250 | |

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 5 Ill. Reg. 1686, effective February 16, 1981; amended at 5 Ill. Reg. 8300, effective August 5, 1981; codified at 5 Ill. Reg. 10911; amended at 7 Ill. Reg. 2167, effective February 4, 1983; amended at 7 Ill. Reg. 3197, effective March 14, 1983; amended at 8 Ill. Reg. 14992, effective August 6, 1984; amended at 14 Ill. Reg. 17636, effective October 16, 1990; amended at 17 Ill. Reg. 12423, effective July 15, 1993; amended at 17 Ill. Reg. 13612, effective July 30, 1993; amended at 18 Ill. Reg. 2064, effective January 21, 1994; amended at 18 Ill. Reg. 11607, effective July 7, 1994; amended at 19 Ill. Reg. 13887, effective October 1, 1995; amended at 20 Ill. Reg. 12473, effective

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

September 1, 1996; amended at 21 Ill. Reg. 951, effective January 7, 1997; amended at 24 Ill. Reg. 7386, effective May 1, 2000; amended at 24 Ill. Reg. 12722, effective August 1, 2000; amended at 24 Ill. Reg. 17482, effective 11/1/00.

Section 510.250 Claiming Price

- a) For a period of 30 days after the claim of a thoroughbred horse, it shall not start in a race in which the eligibility price is less than 25% more than the price at which it was claimed.

- b) This Section shall not apply to starter handicap races.

(Source: Amended at 24 Ill. Reg. 17482, effective 11/1/00.)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Purse Recapture
- 2) Code Citation: 11 Ill. Adm. Code 213
- 3) Section Number: Adopted Action:
213.10 New Section
213.20 New Section
213.30 New Section
213.40 New Section
213.50 New Section
213.60 New Section
213.70 New Section
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rule: November 8, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporation by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 24 Ill. Reg. 9331 - 7/7/00
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: A definition for "Comparative Handle Calendar Year" was included.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes
- 13) Will these rules replace emergency rules currently in effect? No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of rules: This rulemaking will assist the Bureau of the Budget in the appropriation process by establishing pre-certification of the purse recapture amounts no earlier than December 1 of the comparative handle year.
- 16) Information and questions regarding these adopted rules shall be directed to:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 11-100
Chicago, Illinois 60601
(312) 814-5017

The full text of the adopted rules begins on the next page:

ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

accounts, in accordance with the Board's certification of the purse recapture.

"Purse Recapture Certification" - the Board's written notification of the amounts of purse recapture in which qualified wagering facilities are entitled to deduct from amounts payable to purses. The certification shall be issued or published no later than January 31 of the year succeeding the comparative handle calendar year.

Section 213.30 Estimated Purse Recapture Certification

The Board shall calculate and prepare a written estimate or projection of the purse recapture amounts anticipated in the succeeding year no earlier than December 1 of the comparative handle calendar year. The Board shall provide the Bureau of the Budget, the four legislative leaders, and the Department of Agriculture with the written estimate no later than December 15 of the comparative handle calendar year.

Section 213.40 Purse Recapture Certification

The Board shall determine and certify in writing the amounts of purse recapture authorized to be deducted from purses no later than January 31 of the year succeeding the comparative handle calendar year.

Section 213.50 Notice of Purse Recapture Certification

The Board shall notify and provide the purse recapture certification to the Bureau of the Budget, four legislative leaders, Department of Agriculture, organization licensees (including those organization licensees from which wagering facilities derive their license), the thoroughbred and standardbred organizations representing the largest number of horse owners and trainers that has negotiated a contract with an organization licensee, and all Illinois thoroughbred and standardbred breeders organizations. The purse recapture certification shall be provided to the interested parties no later than January 31 of the year succeeding the comparative handle calendar year.

Section 213.60 Department of Agriculture Grant Agreements

The Department of Agriculture shall administer the purse recapture reimbursement and distribute those funds by an executed grant agreement between the Department of Agriculture and the organization licensees acting as custodian of purse funds payable at each eligible racetrack. The Department of Agriculture may condition the grants with reporting requirements and/or other reasonable standards.

Section 213.70 Distribution of the Purse Recapture Reimbursement

- a) The amounts to be reimbursed to the purse accounts at eligible

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NOTICE OF ADOPTED RULES

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER 1: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 213
PURSE RECAPTURE

| | |
|----------------|---|
| Section 213.10 | General |
| 213.20 | Definitions |
| 213.30 | Estimated Purse Recapture Certification |
| 213.40 | Purse Recapture Certification |
| 213.50 | Notice of Purse Recapture Certification |
| 213.60 | Department of Agriculture Grant Agreements |
| 213.70 | Distribution of the Purse Recapture Reimbursement |

AUTHORITY: Authorized by Sections 9(b) and 26(g)(13) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b) and 26(g)(13)].

SOURCE: Adopted at 24 Ill. Reg. 17486, effective 1/1/94.

Section 213.10 General

Pursuant to Section 26(g)(13) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/26(g)(13)], qualified licensed Illinois wagering facilities are permitted to deduct an amount equal to 2% of the difference between the licensee's 1994 handle on Illinois races and its handle on Illinois races in the year in question, from amounts allocated or payable to purses in the succeeding year, at the racetrack from which the wagering facility is affiliated. Recapture amounts shall not be taken until after certification by the Board.

Section 213.20 Definitions

"Comparative Handle Calendar Year" - the calendar year that is being analyzed for purposes of determining the recapture amount. The comparative handle calendar year is always compared to calendar year 1994.

"Purse Recapture" - the amounts certified and authorized by the Board to be deducted by each qualified wagering facility from amounts payable to purses at the licensee's affiliated racetrack.

"Purse Recapture Reimbursement" - the amount appropriated by the Illinois General Assembly from the General Revenue Fund to the Department of Agriculture for payment or credit to the racetrack purse

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

racetracks shall be those authorized pursuant to the Board's purse recapture certification.

- b) The aggregate purse recapture reimbursement shall not exceed the Illinois General Assembly's fiscal year appropriation to the Department of Agriculture intended for this purpose.
- c) In the event that the Illinois General Assembly's fiscal year appropriation to the Department of Agriculture for purse recapture reimbursement is less than the aggregate amount of the Board's certification, the purse recapture reimbursement to each eligible racetrack's purse account shall be allocated in proportion to its share of the total purse recapture.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 7, 2000 through November 13, 2000 and have been scheduled for review by the Committee at its December 12, 2000 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

| Second Notice Expires | Agency and Rule | Start Of First Notice | JCAR Meeting |
|-----------------------|---|--------------------------------|--------------|
| 12/20/00 | Illinois Farm Development Authority, Illinois Farm Development Authority (8 Ill Adm Code 1400) | 9/1/00 24 Ill Reg 13088 | 12/12/00 |
| 12/22/00 | Environmental Protection Agency, Alternate Fuels Program (35 Ill Adm Code 275) | 6/2/00 24 Ill Reg 7843 | 12/12/00 |
| 12/23/00 | Department of Natural Resources, Dog Training on Department-Owned or -Managed Sites (17 Ill Adm Code 950) | 9/22/00 24 Ill Reg 14141 | 12/12/00 |
| 12/23/00 | Office of the Comptroller, Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment (74 Ill Adm Code 330) | 9/22/00 24 Ill Reg 14124 | 12/12/00 |
| 12/27/00 | Department of Insurance, Privacy of Personal Information (50 Ill Adm Code 4001) | 9/22/00 24 Ill Reg 14137 | 12/12/00 |
| 12/27/00 | Department of Public Health, Control of Communicable Diseases Code (77 Ill Adm Code 690) | 4/14/00 24 Ill Reg 6246 | 12/12/00 |
| 12/27/00 | Department of Public Health, Hospital Licensing Requirements (77 Ill Adm Code 250) | 8/18/00 24 Ill Reg 12405 | 12/12/00 |

PROCLAMATIONS

2000-565

DR. BETTY DESPENZA-GREEN DAY

WHEREAS, after 30 years of distinguished and unparalleled service to the children of Chicago as principal of Chicago Vocational Career Academy (CVCA), Dr. Betty Despenza-Green is pursuing other endeavors; and

WHEREAS, during Dr. Green's tenure, Chicago Vocational was transformed into a thriving prototype for academic and vocational innovation; and

WHEREAS, in 1997, the U.S. Department of Education selected CVCA as one of only five New Urban High Schools in the United States to serve as a model for educational reform at the secondary level; and

WHEREAS, CVCA was selected by the Clinton Administration as a Virtual Trade Mission school, allowing Dr. Green and CVCA students to travel to Malaysia and New Zealand as members of the United States Delegation to the APEC conferences; and

WHEREAS, her commitment to excellence and innovation has led to collaborations with cutting-edge educators and administrators throughout the continental United States and the international community; and

WHEREAS, as a result of her dedication, CVCA has been the recipient of highly successful programs and initiatives that have transformed teaching and learning; and

WHEREAS, for more than three decades, she has committed her talents, abilities, and soul to improving the lives of others; and

WHEREAS, CVCA will honor Dr. Green with a Gala Farewell Tribute Dinner on November 10, 2000;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 10, 2000, as DR. BETTY DESPENZA-GREEN DAY in Illinois.

Issued by the Governor November 3, 2000.

Filed by the Secretary of State November 13, 2000.

2000-566

GOOD DEEDS WEEK

WHEREAS, good deeds can make children better human beings and future leaders of our beautiful country; and

WHEREAS, through performing good deeds and random acts of kindness, children can help their fellow classmates to learn and grow in a friendly environment; and

WHEREAS, concerned and caring people can and do make a difference in the lives of the handicapped, the elderly, the lonely, and those who need special attention from time to time; and

WHEREAS, good deeds can make people more caring, loving, and kind;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 12-18, 2000, as GOOD DEEDS WEEK in Illinois.

Issued by the Governor November 3, 2000.

Filed by the Secretary of State November 13, 2000.

2000-567

RECOGNITION FOR DISABLED PERSONS DAY

WHEREAS, on October 4, 1992, the General Assembly of the United Nations agreed unanimously to recognize the more than 500 million disabled person of the world by naming December 3 the International Day for Disabled Persons; and

WHEREAS, all nations and organizations are urged by the United Nations to extend their cooperation in observing this day; and

WHEREAS, regardless of geographic location or nationality, an average of one in ten persons in the world today is either mentally or physically disabled; and

WHEREAS, people with severe, lifelong disabilities live, work, play, and worship in communities and are productive citizens, neighbors, and family members; and

WHEREAS, more needs to be done to promote effective measures for the prevention of disability, for rehabilitation, and for the realization of the goals of full participation of disabled persons in social and economic opportunities;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim December 3, 2000, as RECOGNITION FOR DISABLED PERSONS DAY in Illinois.

Issued by the Governor November 3, 2000.

Filed by the Secretary of State November 13, 2000.

2000-568

REVEREND DR. ROBERT C. JONES, JR. DAY

WHEREAS, Robert C. Jones, Jr. currently serves as the pastor and chief executive officer of the Saint John Missionary Baptist Church of Centreville, Illinois; and

WHEREAS, Pastor Jones oversees a 750-member church with an annual budget of \$200,000 and provides direction to a 20-person joint ministry team which consists of teachers, doctors, administrators, and community professionals; and

WHEREAS, as minister of the Gospel of Christ, Pastor Jones has preached in Israel and conducted revivals in South Korea; and

WHEREAS, Pastor Jones' many accomplishments include past lead organizer and executive director of MECCO (Metro East Church-based Citizens Organization), past president of the New Salem Baptist Congress of Christian Education, and vice moderator of the New Salem Baptist District Association, which consists of 43 Baptist churches in southwest Illinois; and

WHEREAS, Pastor Jones was appointed by former Governor Jim Edgar as a member of the African-American Family Commission for Illinois and is past executive director of Neighbors United for Progress, a not-for-profit housing corporation; and

WHEREAS, Pastor Jones is the author of A Study in Paul: Letters to the Romans; and

WHEREAS, the Reverend Dr. Robert C. Jones, Jr. is considered to be a "pastor who lives in the heart of the community, with the community in his heart"; and

WHEREAS, the Saint John Missionary Baptist Church is celebrating its 8th Anniversary;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 18, 2000, as REVEREND DR. ROBERT C. JONES, JR. DAY in Illinois.

Issued by the Governor November 3, 2000.

Filed by the Secretary of State November 13, 2000.

2000-569

JACK T. KNUEPFER DAY

WHEREAS, Jack T. Knuepfer's vision for the future of DuPage County has earned him the title as "Father of Modern Day DuPage"; and

WHEREAS, under Jack T. Knuepfer's guidance as DuPage County Board Chairman, the DuPage Airport Authority was established as the economic engine for commercial development; and

WHEREAS, Jack T. Knuepfer continued the construction and relocation of the County Government to its current location on County Farm Road; and

WHEREAS, while Jack T. Knuepfer served in the Illinois House of Representatives, he wrote the Illinois Water Pollution Control Act and the Illinois Certificate of Need; and

WHEREAS, Jack T. Knuepfer created the "Metro Counties" organization, consisting of all the Illinois collar counties around Chicago and St. Louis, as a consortium to lobby for suburban interests in Springfield; and

WHEREAS, on behalf of all children, present and future, Jack T. Knuepfer was instrumental in initiating plans for the first DuPage Children's Museum;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 14, 2000, as JACK T. KNUEPFER DAY in Illinois.

Issued by the Governor November 6, 2000.

Filed by the Secretary of State November 13, 2000.

2000-570

AARP SENIOR CELEBRATION 2000 DAY

WHEREAS, Illinoisans age 65 and older comprise approximately 12 percent of our State's population; and

WHEREAS, citizens over the age of 65 have made and continue to make a significant contribution to our State; and

WHEREAS, Illinoisans over the age of 65 continue to be the fastest growing segment of our State's population, with each generation living longer, more active and productive lives; and

WHEREAS, the needs and desires of the growing over 65 population has required policy makers to rethink infrastructure, program design, and funding priorities; and

WHEREAS, policy makers rose to the challenge by funding a statewide home delivered meal program, the long term ombudsman program, an expanded senior drug program, and enacting a Patient Bill of Rights, the Assisted Living and Shared Housing Act, and a ban on a one-time bank draft; and

WHEREAS, AARP is hosting Senior Celebration 2000 to recognize the support that seniors and aging services have received;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 28, 2000, as AARP SENIOR CELEBRATION 2000 DAY in Illinois.

Issued by the Governor November 8, 2000.

Filed by the Secretary of State November 13, 2000.

2000-571

INTERNATIONAL EDUCATION WEEK

WHEREAS, U.S. Secretary of Education Richard W. Riley has designated November 13-17, 2000, as International Education Week in the United States; and

WHEREAS, this week is set aside as a special time for students to recognize the value of gaining a broad understanding of the cultures, languages, and governments of other nations; and

WHEREAS, International Education Week is part of a larger response by the Departments of Education and State to an April 1, 2000, Presidential Directive aimed at increasing support for international education; and

WHEREAS, all ambassadors serving in the U.S. have been invited to visit a school or college during the special international week; and

WHEREAS, in 1997-1998, only 114,000 Americans studied at universities abroad, and only half of that number for a semester or more; and

WHEREAS, a greater emphasis should be placed on teaching children a foreign language in the early grades so that Illinois children will be better prepared to function in a global society;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 13-17, 2000, as INTERNATIONAL EDUCATION WEEK in Illinois.

Issued by the Governor November 8, 2000.

Filed by the Secretary of State November 13, 2000.

2000-572

PARALYZED VETERANS OF AMERICA RECOGNITION DAY

WHEREAS, America would not be the great, free nation it is today if not for the citizens who came to its defense in times of conflict; and

WHEREAS, no one who serves his or her country ever forgets the experience, but some made sacrifices that forever altered their lives; and

WHEREAS, special events are observed to recognize the men and women who have served in the Armed Forces and have experienced paralysis; and

WHEREAS, in Illinois, the Vaughan Chapter of Paralyzed Veterans of America is holding a celebration at Hines Medical Center in conjunction with the national Veterans Day observance; and

WHEREAS, it is important to remember those who have served our country and suffered irreparable harm and recognize them at this time;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 9, 2000, as PARALYZED VETERANS OF AMERICA RECOGNITION DAY in Illinois.

Issued by the Governor November 8, 2000.

Filed by the Secretary of State November 13, 2000.

2000-573

ROTC RECOGNITION DAY

WHEREAS, the Reserve Officers Training Corp (ROTC) had its beginnings in the early 19th century, and the college campus was a logical place to find those who could qualify; and

WHEREAS, in 1862, the Land Grant Act was passed, and as a result, 105 colleges and universities were offering military instruction by the early 1900s; and

WHEREAS, in 1916, Congress recognized the need for an expanded military reserve, passing the National Defense Act, which provided for the establishment of the Officers' Reserve Corps to be composed of men trained in ROTC and in Army training camps; and

WHEREAS, during World War II and the attack on Pearl Harbor, the ROTC provided the necessary military leadership, which came from preparation made on

the campuses of our colleges and universities, acquired to defend our country; and

WHEREAS, Congress added strength to the program with the passage of the ROTC Vitalization Act of 1964, which provided scholarships, a two-year program, and an increase in money for ROTC students; and

WHEREAS, Illinois is proud to support the ROTC and the JROTC programs throughout the State in various colleges, universities, and high schools;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 29, 2000, as ROTC RECOGNITION DAY in Illinois.

Issued by the Governor November 8, 2000.

Filed by the Secretary of State November 13, 2000.

2000-574

SERVICE WEEK 2000

WHEREAS, founded in 1925, Alpha Phi Omega is the nation's largest service fraternity whose primary purpose is to serve the campus, community, and nation; and

WHEREAS, over 260,000 men and women have been members of Alpha Phi Omega, representing and serving more than 330 college campuses nationwide; and

WHEREAS, the Alpha Phi Omega chapter at Southern Illinois University Edwardsville is participating in National Service Week 2000; and

WHEREAS, this coed organization has sponsored an annual Service Week since 1979; and

WHEREAS, this year's national emphasis is "Nurturing the Leaders of Tomorrow"; and

WHEREAS, the SIUE chapter will organize various service projects, such as holding a babysitting service for all professors on campus, providing service to local boy and girl scout troops, and tutoring local grade school children; and

WHEREAS, Service Week 2000 will take place November 6-12, 2000, in the City of Edwardsville;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 6-12, 2000, as SERVICE WEEK 2000 in Illinois.

Issued by the Governor November 8, 2000.

Filed by the Secretary of State November 13, 2000.

2000-575

THANKSGIVING DAY

WHEREAS, the Pilgrims carried on an ancient tradition when they held a Thanksgiving festival at Plymouth colony in 1621 to show gratitude for their survival and the absence of persecution; and

WHEREAS, America's first national Thanksgiving was proclaimed by the Continental Congress on November 1, 1777, and George Washington made the first presidential proclamation for a Thanksgiving in 1789, in honor of the new Constitution; and

WHEREAS, Thanksgiving Day was first celebrated on a specific day in 1861 upon President Lincoln's request, and now all states observe the fourth Thursday in November as a day of thanks; and

WHEREAS, we are still thankful today for our well-being and our freedom as the pilgrims were, and Thanksgiving Day is anticipated with joy and cherished

as one of the most beautiful expressions of the spirit of America;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 23, 2000, as THANKSGIVING DAY in Illinois.

Issued by the Governor November 8, 2000.

Filed by the Secretary of State November 13, 2000.

Rules acted upon during the calendar quarter from Issue 43 through Issue 53 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ccgate.sos.state.il.us on the Internet.

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